

FINAL EIR

for the

BIOMARIN AND WHISTLESTOP/EDEN HOUSING PROJECT

STATE CLEARINGHOUSE NUMBER 2019029046



Prepared for
City of San Rafael

January 2020

Prepared by
Amy Skewes-Cox, AICP

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In conjunction with

BASELINE ENVIRONMENTAL CONSULTING
ENVIRONMENTAL COLLABORATIVE
LSA ASSOCIATES
NATALIE MACRIS
PARISI TRANSPORTATION CONSULTING
WORDSMITH WORD PROCESSING
TOM CAMARA GRAPHICS
RON TEITEL GRAPHICS

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Chapter I INTRODUCTION



A. PURPOSE OF THE FINAL EIR

This document, together with the Draft EIR (DEIR), is the Final Environmental Impact Report (Final EIR or FEIR) for the BioMarin and Whistlestop/Eden Housing Project (State Clearinghouse Number 2019029046). The DEIR identified the likely environmental consequences of the project and recommended mitigation measures to reduce or eliminate significant impacts. This document responds to public comments on the DEIR, revises the DEIR as necessary, and provides a Mitigation Monitoring and Reporting Program (MMRP) for the project.

According to the California Environmental Quality Act (CEQA) (as amended January 1, 2019), lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the DEIR. For this project, the City of San Rafael is the lead agency. This document has been prepared to respond to comments received on the DEIR and to clarify any errors, omissions, or misinterpretations of the analysis or findings in the DEIR.

This document, together with the DEIR, will constitute the FEIR if the City of San Rafael certifies the FEIR as complete and adequate under CEQA.

B. ENVIRONMENTAL REVIEW PROCESS

The DEIR was made available for public review from August 9, 2019 through September 23, 2019. The general public was advised of the availability of the DEIR through notification via email and Notices of Availability (NOA) mailed to neighbors of the project site. Public agencies and interest groups were also notified by mail. The DEIR notification was also sent via the State Clearinghouse to various state agencies. The DEIR and NOA were posted on the City of San Rafael website on August 9, 2019.

During the public review period on the DEIR, written comments were made. A copy of written comments on the DEIR and responses to the comments can be found in Chapter II of this document.

In addition, comments on the DEIR were made at a public hearing held before the City of San Rafael Planning Commission on September 24, 2019. Chapter II of this document provides written summaries of and responses to those comments.

The FEIR will be presented to the City of San Rafael Planning Commission at its meeting scheduled for **January 28, 2020 at 7:00 PM**, at the City of San Rafael Council Chambers at City Hall located at 1400 Fifth Avenue, San Rafael, California. The Planning Commission will be asked to make a recommendation to the City Council regarding certification of the FEIR, including a requirement to make a Statement of Overriding Considerations for impacts that cannot be mitigated to less-than-significant levels. The San Rafael City Council will take final action on certification. Before acting on the project, the City Council must certify the FEIR, adopt the Statement of Overriding Considerations, and adopt the MMRP (see Chapter IV of this

document). In addition, the City Council must make the necessary findings for the adoption of mitigation measures associated with the project.

C. REPORT ORGANIZATION

This document consists of the following chapters:

- *Chapter I: Introduction.* This chapter includes a discussion of the purpose and organization of the FEIR.
- *Chapter II: Comment Letters and Responses for the DEIR.* This chapter contains the names of individuals and agencies commenting on the DEIR and reproductions of letters and emails received on the DEIR. The comments are numbered in the margins of the comment letters and responses are keyed to the comment numbers. Where revisions to the DEIR are appropriate, these are summarized and the actual text changes are shown in Chapter III.
- *Chapter III: DEIR Text Changes.* This chapter contains corrections or clarifications that have been made based on comments received on the DEIR or for other reasons. The changes show language that has been added to or deleted from the DEIR. Double underlined text represents language that has been added to the DEIR; text in ~~strikeout~~ has been deleted from the DEIR.
- *Chapter IV: Mitigation Monitoring and Reporting Program.* This chapter identifies mitigation measures referenced in the EIR as necessary to avoid or reduce the project's potentially significant impacts and provides a program for implementation and monitoring of these measures. The timing and entity responsible for monitoring are identified.

Chapter II
COMMENT LETTERS AND RESPONSES
FOR THE DEIR



This chapter includes a reproduction of each comment letter (including emails) that addressed the DEIR and was received during the public review period. Each letter is followed by responses to comments made in the letter.

	COMMENT NUMBER
A. Federal, State, and Local Agency Comments and Responses	
1. California Department of Transportation, District 4	A1-1 to A1-4
2. Golden Gate Bridge Highway & Transportation District	A2-1
3. Federated Indians of Graton Rancheria	A3-1
4. San Rafael Sanitation District.....	A4-1
B. Public and Public Interest Group Comments and Responses	
1. BioMarin Pharmaceutical Inc.....	B1-1 to B1-16
2. Eden Housing.....	B2-1 to B2-7
C. Public Hearing Comments and Responses	C1 to C7

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A. FEDERAL, STATE, AND LOCAL AGENCY COMMENTS AND RESPONSES

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DEPARTMENT OF TRANSPORTATION

DISTRICT 4
 OFFICE OF TRANSIT AND COMMUNITY PLANNING
 P.O. BOX 23660, MS-10D
 OAKLAND, CA 94623-0660
 PHONE (510) 286-5528
 TTY 711
 www.dot.ca.gov



*Making Conservation
 a California Way of Life.*

September 10, 2019

SCH #2019029046
 GTS # 04-MRN-2019-00140
 GTS ID: 14490
 MRN-101-PM 10.93

Sean Kennings, Contract Planner
 City of San Rafael
 Community Development Department
 1400 Fifth Avenue, 3rd Floor
 San Rafael, CA 94901

BioMarin and Whistlestop/Eden Housing Project – Draft Environmental Impact Report (EIR)

Dear Sean Kennings:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the BioMarin and Whistlestop/Eden Housing Project. In tandem with the Metropolitan Transportation Commission's (MTC) Sustainable Communities Strategy (SCS), Caltrans' mission signals our continuing approach to evaluate and mitigate impacts to the State's multimodal transportation network. Caltrans' Strategic Management Plan 2015-2020 aims, in part, to reduce Vehicle Miles Traveled (VMT) and Greenhouse Gas emissions (GHG) in alignment with state goals and policies. Our comments are based on the August 2019 DEIR.

Project Understanding

The BioMarin portion of the project would be constructed in two phases. Phase I would consist of construction of Building A, which would be located on the north side of the project site and would include 77,000 square feet (sf) of office space and 33,000 sf of amenities for employees and visitors of the overall BioMarin campus. The 33,000 sf of amenities would be located on the ground floor and would include lobbies, conference rooms, a fitness center, dining space, and retail space. The retail space, consisting of about 3,500 sf, would be open to the public. Additional public use space would be an adjacent landscaped plaza (approximately 6,000 sf) that could be an outdoor public gathering area during daytime hours.

Phase II would consist of construction of Building B, which would provide 97,000 sf of laboratory space in the southern portion of the project site. Both Building A & B

A1-1

Sean Kennings, Contract Planner
September 10, 2019
Page 2

would be 69 ft (4 stories) in height. Building A would have approximately 262 ft of frontage on 3rd St and 180 ft of frontage on Lindaro Street. Building B would have approximately 244 ft of frontage on 2nd St and 109 ft of frontage on Lindaro Street.



Whistlestop/Eden Housing would develop its building on 0.34 acre at the northwest corner of the project site. The building would provide approximately 18,000 square feet of space for a Healthy Aging Center and 67 affordable senior housing units. Regional access to the site will be provided approximately 0.3 miles east of the site at the US 101/2nd Street and Hetherton Street interchange.

A1-1

Highway Operations

Please state the source of the traffic volumes presented in the Transportation Impact Study, Figure 4. Weekday Peak Hour Freeway Volumes – Existing Conditions. Please state how the data is different from the traffic volumes reported in the Caltrans Performance Measurement System (PeMS).

A1-2

Construction-Related Impacts

Potential impacts to US 101 from project-related temporary access points should be discussed. Project work that requires movement of oversized or excessive load vehicles on state roadways requires a transportation permit that is issued by Caltrans. To apply, visit: <https://dot.ca.gov/programs/traffic-operations/transportation-permits>.

A1-3

Lead Agency

As the Lead Agency, the City of San Rafael is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN.) The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

A1-4

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Andrew Chan at 510-622-5433 or andrew.chan@dot.ca.gov.

Sincerely,


Wahida Rashid

Acting District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

LETTER A1**California Department of Transportation, District 4**

- A1-1 The comment describes the commenter's understanding of the project. The comment is accurate and is consistent with the project description in the DEIR.
- A1-2 The traffic volumes presented in Table 4 of the Transportation Impact Study consist of PeMS-reported mainline traffic volumes and separate counts conducted by Fehr & Peers, Inc. for the various on- and off-ramps. The counts were performed in 2017 and 2018.
- A1-3 The project would not require any temporary access points for U.S. Highway 101 (US 101). The applicants would be required to obtain a transportation permit, issued by Caltrans, if any oversized or excessive loads are required on state roadways.
- A1-4 The project's scheduling, implementation responsibilities, and lead agency monitoring are described in the Mitigation Monitoring and Reporting Program (MMRP) (see Chapter IV of this Final EIR). The project's fair share contribution and financing details would be addressed by the City of San Rafael and the applicants as part of the project's Development Agreement.

September 23, 2019

Sean Kennings
Contract Planner
Community Development Dept.
City of San Rafael
San Rafael, CA 94901



Re: BioMarin and Whistlestop/Eden Housing Project Draft EIR Comments

Dear Mr. Kennings:

The Golden Gate Bridge, Highway and Transportation District (District) thanks the City of San Rafael for providing it with the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the BioMarin and Whistlestop/Eden Housing Project. The District operates Golden Gate Transit bus service connecting the project area in San Rafael with San Francisco, North Bay, and East Bay communities across a network of seven routes.

The District is supportive of efforts to encourage public transit usage, especially on commuter services that operate from San Francisco and the East Bay to San Rafael, and is supportive of the Transportation Demand Management (TDM) efforts outlined in Mitigation Measure TRANS-1. The District worked to encourage BioMarin employees to use public transit when its downtown San Rafael facility opened in 2016. However, some employees expressed a hesitation to use public transit because they were required to travel between BioMarin's San Rafael and Bel Marin Keys offices. Employees indicated that they used their own automobiles because BioMarin did not have company pool cars or other services available for inter-office trips.

A2-1

Therefore, the District recommends that this mitigation measure also direct BioMarin or any successive owners or lessors to facilitate public transit and other alternative commutes by allowing employees to travel between company offices without having to use their own automobiles.

Please feel free to contact me at ddavenport@goldengate.org or (415) 257-4546 if you have any questions about these comments.

Yours sincerely,

A handwritten signature in black ink that reads "David Davenport". The signature is written in a cursive, flowing style.

David Davenport
Senior Planner

c: M. Palumbo, R. Downing

LETTER A2**Golden Gate Bridge Highway & Transportation District**

- A2-1 The comment supports the implementation of a Transportation Demand Management (TDM) program as outlined in Mitigation Measure TRANS-1 in the DEIR. The comment recommends that the mitigation measure also direct BioMarin or any successive owners or lessors to facilitate public transit and other alternative commutes by allowing employees to travel between company offices without having to use their own automobiles. Mitigation Measure TRANS-1 would enable BioMarin or successive owners to adopt this approach as one of several means for achieving at least 15 percent fewer vehicle trips (the trip reduction requirement specified in the mitigation measure).

----- Forwarded message -----

From: THPO@gratonrancheria.com <THPO@gratonrancheria.com>
Date: Wed, Aug 21, 2019 at 4:33 PM
Subject: BioMarin/Whistelstop/EDEN Housing Mixed Use Project at 999 3rd St
To: Sean Kennings - LAK Associates (sean@lakassociates.com) <sean@lakassociates.com>

Dear Mr. Kennings,

The Federated Indians of Graton Rancheria has received your project notification, and has reviewed your project and concluded that the project may impact Tribal Cultural Resources. Due to the location of the project's area of potential effect (APE) and the proximity to a site or within the sacred site, the Tribe will require a FIGR Cultural Monitor during ground disturbing activities, along with a Tribal Treatment Plan (developed in coordination with the Tribe, land owner and lead agency).

Please contact the Tribal Heritage Preservation Officer (THPO) to make arrangements for a cultural monitor, treatment plan sample. Allow us one month to issue a plan, contract, and scheduling. We appreciate being notified of the project and look forward to working with you to protect Tribal Cultural Resources.

A3-1

Buffy McQuillen
Tribal Heritage Preservation Officer (THPO)
Native American Graves Protection and Repatriation Act (NAGPRA)
Office: 707.566.2288; ext. 137
Cell: 707.318.0485
FAX: 707.566.2291

Hector Garcia
THPO Administrative Assistant II
Federated Indians of Graton Rancheria
6400 Redwood Drive, Suite 300
Rohnert Park, CA 94928
Office: 707.566.2288, ext. 138
Fax: 707.588-9809
Email: hgarcia@gratonrancheria.com <<mailto:hgarcia@gratonrancheria.com>>
www.gratonrancheria.com <<http://www.gratonrancheria.com/>>

P please consider our environment before printing this email.

Federated Indians of Graton Rancheria and Tribal TANF of Sonoma & Marin - Proprietary and Confidential

CONFIDENTIALITY NOTICE: This transmittal is a confidential communication or may otherwise be privileged. If you are not the intended recipient, you are hereby notified that you have received this transmittal in error and that any review, dissemination, distribution or copying of this transmittal is strictly prohibited. If you have received this communication in error, please notify this office at 707-566-2288, and immediately delete this message and all its attachments, if any. Thank you.

LETTER A3**Federated Indians of Graton Rancheria**

- A3-1 The Tribal Heritage Preservation Officer (THPO) for the Federated Indians of Graton Rancheria (FIGR) submitted this comment regarding tribal cultural resources. The comment states that FIGR will require tribal monitoring due to the project's location in proximity to a site or within a sacred site.

To identify Native American archaeological sites and sacred sites, the DEIR analysis included records searches at the Northwest Information Center (NWIC) and the Native American Heritage Commission (NAHC). The NWIC is the state's database of cultural resource locations and studies for Marin County. The NAHC maintains the Sacred Lands File, a statewide database of reported Native American sacred site locations. As reported in Section 4.3, Cultural Resources, of the DEIR, the NWIC database indicates that there are four Native American archaeological sites within a 0.25-mile radius of the project site. None of these sites, however, are at or adjacent to the project site. A review of the NAHC Sacred Lands File had negative results, as stated in Section 4.14, Tribal Cultural Resources, of the DEIR.


As required under Public Resources Code Section 21080.3.1, the City of San Rafael notified FIGR of its opportunity to initiate government-to-government consultation for the project to identify tribal cultural resources that may be adversely affected by the project. City planning staff discussed the project with the FIGR THPO via telephone, during which City staff described the extensive soil removal and disturbance that has occurred at the project site. The City also agreed to keep FIGR apprised of the project's environmental review process. FIGR did not express concerns during that telephone call—or at any other time during the consultation period—regarding the project's impacts on a sacred site.

The purpose of government-to-government consultation, as required under Assembly Bill (AB) 52, is for both parties to come to a mutual understanding regarding a project's potential impacts on tribal cultural resources and to identify appropriate mitigation measures. FIGR cannot unilaterally require tribal monitoring. The tribe has not presented information to the City regarding the presence of a tribal cultural resource at or near the project site that would warrant tribal or archaeological monitoring. Therefore, the City is of the opinion that the need for tribal monitoring has not been demonstrated and is not required as a mitigation measure.

San Rafael Sanitation District
Memorandum

DATE: September 26, 2019

TO: Sean Kennings, Contract Planner (sean@lakassociates.com)
Raffi Boloyan, Planning Manager

FROM: Doris Toy, District Manager 

SUBJECT: **Draft Environmental Impact Report**
BioMarin/Whistlestop/EDEN Housing Mixed Use Project
999 Third Street

BioMarin: Two, four-story, laboratory and office buildings
Whistlestop/Eden Housing: six-story, Health Aging Campus with 67
affordable units and senior services

The San Rafael Sanitation District has reviewed the August 9, 2019, Draft EIR, Section 4.15, "Utilities and Service System," Sub-Section, "Wastewater" and has the following comment:

Under the paragraph, "Wastewater Generation at Project Site", it does not state the proposed volume of wastewater that will be generated at the site. Please provide the estimated peak flows from each of the facilities to determine if the existing sewer facilities can accommodate the proposed flows.

Please note that the District is planning to rehabilitate portions of the sewer on Third Street between the Miracle Mile and Grand Ave in conjunction with the City of San Rafael's Third Street improvement project. If the existing sewer facilities cannot accommodate the proposed flows, the sewer facilities will need to be upsized and can be included in the District's sewer rehabilitation.

A4-1

cc: Karen Chew, Senior Civil Engineer

LETTER A4**San Rafael Sanitation District**

A4-1 The commenter requests information on wastewater volumes that would result from the project. This information was provided on page 4.15-11 in Section 4.15, Utilities and Service Systems, of the DEIR. As stated there, the project applicants estimate that wastewater generation would be approximately as follows:

1. For the BioMarin project: approximately 1,500 gallons per day for the office use (BioMarin Building A) and approximately 3,000 gallons per day for the R&D use (BioMarin Building B).
2. For the Whistlestop/Eden Housing project: approximately 140,000 gallons per month for the residential component and 38,000 gallons per month for the Healthy Aging Center component. (Assuming a 30-day month, the Whistlestop/Eden Housing project estimates translate to 4,667 gallons per day for the residential component and 1,267 gallons per day for the Healthy Aging Center component.)

On pages 4.15-9 and 4.15-11, the DEIR noted that the project would include connections into the existing 12-inch sewer line running along 3rd Street, and that wastewater would discharge into that line and into the 27-inch and 18-inch sewer lines on 2nd Street, depending on the additional flows and pipe capacities. On page 4.15-9, the DEIR stated that the lift station has adequate capacity to serve the additional flow, and that construction of new off-site wastewater facilities or expansion of existing facilities is not expected to be necessary. The DEIR (page 4.15-9) further noted that the project applicants would be required to submit civil engineering plans to the San Rafael Sanitation District for approval, at which time the capacity of each pipeline would be checked and various options for connection would be evaluated; and that the project applicants would be required to pay appropriate development impact and utility connection fees toward ongoing improvement and maintenance of the wastewater system. For these reasons, the DEIR concluded that the environmental impact would be less than significant, and no mitigation is necessary.

This information and conclusions were reviewed and confirmed with the San Rafael Sanitation District (the commenter) before the DEIR was published. The commenter has not submitted additional information suggesting that changes to the DEIR are necessary. The standard plan review process and fee payments described in the DEIR would be expected to address the project's relationship to the planned 3rd Street sewer rehabilitation project mentioned by the commenter.

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B. PUBLIC AND PUBLIC INTEREST GROUP COMMENTS AND RESPONSES

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September 19, 2019

Mr. Sean Kennings, Contract Planner
City of San Rafael
Community Development Department
1400 Fifth Avenue, 3rd Floor
San Rafael, CA 94901

Re: Written Comments on the Draft EIR for the BioMarin and Whistlestop/Eden Housing Project

Dear Mr. Kennings,

BioMarin Pharmaceutical Inc. reviewed the Draft EIR for the BioMarin and Whistlestop/Eden Housing Project (Project) proposed for the 3.05-acre site at 999 3rd Street in downtown San Rafael, California (the "Draft EIR"). Our written comments on the Draft EIR follow. We appreciate the opportunity to be part of the environmental review process and we are committed to ensuring that our project with Whistlestop/Eden Housing best addresses the needs of the community with the least environmental impact possible.

BACKGROUND

BioMarin is a global biotechnology company that was founded in Marin County in 1997. BioMarin purchased the 999 3rd Street property from PG&E in 2015 to meet its growing need for additional R&D laboratories and offices. As one of the largest and fastest growing employers in San Rafael and Marin County, with a significant share of its workforce residing locally, BioMarin's development of this property in partnership with Whistlestop/Eden Housing, supports San Rafael's goals of economic development, downtown vibrancy, affordable senior housing, and transit-oriented development. Additionally, the proposed project advances the City's goals and policies for Downtown San Rafael set in the General Plan.

This project allows for expansion of BioMarin's facilities and development of a healthy aging center and affordable senior housing in an efficient and flexible manner that supports and incorporates many state and local needs, including (1) the State's critical need for affordable housing; (2) a new Whistlestop Healthy Aging Center to provide social, health and wellness, and information services for seniors; (3) San Rafael's need to advance its Downtown vision and activate 3rd Street as a Downtown corridor complementing 4th Street; (4) San Rafael's desire for increased revenue and growth by expanding the Downtown's economic success and increasing opportunities for retail, office, and residential development; (5) a collective need to clean up brownfield sites and revitalize underutilized parcels; (6) San Rafael Downtown Station Area Plan's goal to enable new transit-oriented development characterized by increased activity and a mix of uses; and (7) Marin County's desire to attract high-paying jobs and an educated workforce by promoting and extending the North Bay Life Science Cluster Alliance's mission. The overall project is intended to contribute to the economic development, sustainability, and vitality of Downtown San Rafael.

B1-1

Mr. Sean Kennings
September 18, 2019
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COMMENTS

Alternatives

While we appreciate the City's analysis of various alternatives to the Project, we want to clarify that the alternatives are not feasible from our perspective nor do they meet the primary project objectives. As shared in the background above, the Project has been thoughtfully designed to meet BioMarin's growing need for additional R&D laboratories and offices while also accommodating the development of a healthy aging center and affordable senior housing.

Specifically, the Draft EIR identifies Alternative #2 as the "Environmental Superior Project" and suggests that it meets all the 12 project objectives other than the first objective ("Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing."). In fact, alternative #2 fails to satisfy most of the primary project objectives. Reducing BioMarin's portion of the Project by over 58% would make the Project impracticable for BioMarin. Given the high costs of construction and land in the San Francisco Bay Area, it would not be feasible for BioMarin to build a smaller campus on the Project site and BioMarin would be forced to find an alternative location to grow its campus. Without BioMarin (and its proposed public plaza and retail space) on this site, in addition to failing to satisfy the first objective, the following additional objectives would not be achieved:

- Activation of 3rd Street as a vibrant downtown corridor, in parallel to and complementing 4th Street.
- Development of a project that will provide enhanced pedestrian experience and safety through the connection of BioMarin's existing campus and surrounding residential communities to San Rafael's downtown corridor with the use of site setbacks and landscaping along the perimeter of the project site, as well as improved sidewalks and crosswalk design.
- Promotion of San Rafael's goals of encouraging alternative modes of transportation with the donation of funds to develop a bike lane on Lindero Street from 3rd Street to Andersen Drive.
- Remediation and revitalization of a brownfield site.
- Development of signature buildings in the heart of downtown San Rafael that are reflective of the history of San Rafael and its future growth.
- Support for the continued growth and retention of BioMarin in San Rafael, which in turn provides local employment opportunities and significant economic benefits to the City and local businesses.
- Support for the City of San Rafael's desire to attract and retain a growing and sophisticated work force with high-paying jobs.
- Creation of transit-oriented development in line with the Downtown Station Area Plan's goals as well as the City of San Rafael's General Plan goals.

B1-2

Mr. Sean Kennings
September 18, 2019
Page 3 of 9

Moreover, the Whistlestop/Eden Housing development is contingent on BioMarin’s project. If BioMarin relocates its project to a new location, the Whistlestop/Eden Housing portion of the Project would not proceed at the Project site. As a result, despite the conclusion in the Draft EIR that with Alternative #2 Whistlestop/Eden Housing “would be unchanged from the proposed project,” Whistlestop/Eden Housing would in fact have to find a new location, which has proven difficult in the past, with a dearth of cost-effective and centrally located real estate available in downtown San Rafael. As such, Alternative #2 would also result in (1) San Rafael not realizing the affordable housing benefits provided by the Project and (2) the failure to achieve the following additional objectives:



- Provision of a new location for Whistlestop’s existing Healthy Aging Center and Eden Housing’s proposed senior housing that is affordable for the project and central to downtown San Rafael and public transit, and that is proximate to the freeway and its associated air quality impacts;
- Development of a high-quality, mixed-use building comprised of a Healthy Aging Center for Whistlestop, a non-profit organization vital to the local older adult community, that will provide services for older adults in San Rafael and the greater Marin County area in a practical and cost-effective manner; and 67 affordable rental housing units for seniors in an environmentally conscious, car-free community proximately situated to public transportation and downtown businesses.

B1-2

Similarly, for the same reasons articulated with Alternative #2 and despite conclusions to the contrary in the Draft EIR, by reducing the scale of BioMarin’s portion of the project and locating a massive 8-story parking structure on the site, Alternative #4 fails to meet the same primary project objectives discussed above, as well as the final objective relating to parking:



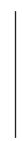
- Use of larger parking structures on the perimeter of the BioMarin campus to keep the visible bulk away from major views and to reduce car trips along 2nd and 3rd Streets, while creating an environment more easily navigated by employees and visitors.

B1-3

In short, Alternative #4 would not achieve any of the primary project objectives.

Project Description

BioMarin wants to clarify that the BioMarin portion of the Project would not result in a “new” Planned Development (PD) zoning district, as stated at Page 3-11. In fact, as proposed, the existing PD zoning district for the SRCC would be amended and expanded to include BioMarin’s portion of the Project. Thus, there is no new PD zoning district created.



B1-4

Aesthetics

Despite the analysis in the Draft EIR, the Project is an infill project that does not require an aesthetics evaluation. Infill projects include those developed on sites “located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses,” and transit priority area “means an area within one-half mile of a major transit stop that is



B1-5

Mr. Sean Kennings
September 18, 2019
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existing or planned.” CEQA §§ 21099(a)(4),(7); See Covina Residents for Responsible Development v. City of Covina (2018) 21 Cal.App.5th 712, 725-26. The Legislature specified in Senate Bill 743 (SB 743) that effective January 2014, aesthetics is expressly not an impact required to be evaluated under CEQA for infill projects located in transit priority areas. CEQA § 21099(d)(1) (“Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.”)



B1-5

The Project site is less than one-half mile away from an existing transit stop and fits the definition of an infill project. It is located within the Downtown Priority Development Area (PDA) identified in Plan Bay Area. The Downtown PDA was designated in 2009 and established a one-half-mile radius planning area around the SMART station and Bettini Transit Center. The Project site is located west of Highway 101 and two blocks (or a five-minute walk) from the Bettini Transportation Center and Sonoma-Marín Area Rail Transit (SMART) San Rafael station. The site was formerly developed with a manufactured gas plant and is surrounded on all sides by existing development. Therefore, while the City may review the potential aesthetic impacts of the project for informational purposes, aesthetic impacts of this infill project are exempt from environmental review under CEQA section 21099.

Air Pollution

The Draft EIR notes that a drill rig (for pile driving) was added to the default construction list for purposes of calculating construction related emissions (p. 4.2-13, Table 4.2-5). However, BioMarin would like to make clear that our geotechnical engineers have confirmed that the Project will be constructed using drilled piers.

B1-6

Cultural

Though it is not addressed in the Draft EIR, we understand the City will comply with SB 18 noticing requirements as part of the General Plan Amendment. BioMarin will certainly support tribal monitoring if requested and warranted.

B1-7

Greenhouse Gas Emissions

BioMarin appreciates and agrees with the Draft EIR’s conclusion that the Project is consistent with the City’s Climate Change Action Plan (CCAP). For the record and to ensure the Draft EIR conclusion is defensible, the following elaborates on exactly how the Project satisfies the CCAP and why it is reasonable to find less than significant GHG emissions impact, based also on the fact that the Project is consistent with SB 372, the Sustainable Communities Strategy, and Plan Bay Area 2040.

B1-8

In Center for Biological Diversity v. Department of Fish & Wildlife (2015) 62 Cal.4th 204, 228–230, the California Supreme Court explained that there are various options available to evaluate cumulative significance of a proposed land use project on greenhouse gas emissions. These include consistency with a local Climate Action Plan (CAP) and consistency with a Regional Sustainable Community Strategy (SCS). Here, the Project is consistent with both the City’s Climate Change Action Plan (CCAP) and the Association of Bay Area Government’s Regional SCS.



Climate Change Action Plan

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As explained on page 4.6-11 of the Draft EIR, the CCAP 2030 has been prepared pursuant to CEQA Guidelines Section 15183.5 and is considered a Qualified Greenhouse Gas Reduction Plan for streamlining CEQA analysis. In addition to the consistency analysis provided in Table 4.6-3, BioMarin asserts that the Project is consistent with the following additional measures:

- **LCT-C1: Zero Emission Vehicles.** The project will install electric vehicle chargers.
- **LCT-C3: Walking.** The Project is donating funds to enhance pedestrian safety with improved sidewalks and crosswalk design at the corner of Lindaro and 2nd streets, as well as 3rd Street and Lootens Place. The Project is consistent with the City’s Bicycle and Pedestrian Master Plan and Complete Streets Program.
- **LCT-C6: Employee Trip Reduction.** BioMarin’s existing Transportation Demand Management (TDM) Program would be expanded to apply to the entire BioMarin campus in San Rafael, including the Project site. In addition, Mitigation Measure TRANS 1 requires BioMarin to expand its current TDM program such that is further reduces daily vehicle trips by 15%.
- **LCT-C9: Smart Growth Development.** The Project is an infill, transit-oriented, mixed-use development located within 2 blocks of major public transportation stations.
- **SA-C1: Urban Forest.** There are no existing trees on the Project site. The Project is designed to be well landscaped with a rich palette of planting and generous landscaped street setbacks with local planting materials and large trees. The construction of the proposed project would be required to implement a SWPPP and to comply with City of San Rafael BMPs for construction activities, including measures for managing hazardous materials used on construction sites and for keeping the construction site maintained in a clean and orderly state, and hazardous materials storage requirements. In addition, the Project would install bioretention planters and pervious concrete pavers throughout the site. The Project would also be required to identify potential sources of pollutants and implement source control measures and provide for ongoing maintenance of bioretention facilities.

B1-8

Consistency with Plan Bay Area 2040

As described on page 4.6-6 of the Draft EIR, SB 375 aligns regional transportation planning efforts, regional GHG reduction targets, and land use and housing allocations to reduce vehicle emissions and help California meet the GHG reduction goals established in AB 32. Under SB 375, the Association of Bay Area Governments adopted its Sustainable Communities Strategy (SCS) to reduce regional VMTs and associated GHG emissions through land use planning strategies, such as promoting compact, mixed-use commercial and residential development near public transportation hubs. Plan Bay Area 2040 is the regional SCS that applies to the Project.

B1-9

As explained in Plan Bay Area 2040, its “core strategy is ‘focused growth’ in existing communities along the existing transportation network. This strategy allows the best ‘bang for the buck’ in achieving key regional economic, environmental and equity goals: it builds upon existing community characteristics, efficiently leverages existing infrastructure and mitigates impacts on areas with less development. Key to implementing the focused growth strategy are Priority Development Areas (PDAs) and Priority

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Conservation Areas (PCAs) identified, recommended and approved by local governments.”¹ Plan Bay Area 2040 identifies about 200 PDAs in which to focus growth. These are existing neighborhoods are served by public transit and have been identified as appropriate for additional, compact development.

B1-9

The Project is a mixed-use commercial and residential development located within 2 blocks of major public transportation hubs and is located within the Downtown PDA in Plan Bay Area 2040. It is therefore entirely consistent with SB 375.

Land Use

BioMarin appreciates the Draft EIR’s analysis of relevant land use policies and programs on Pages 4.9-5 through 4.9-9. BioMarin would like to make clear that the proposed general plan amendment and re-zoning does not result in any significant impacts and is consistent with relevant policies. In addition to the analysis provided in section 4.9-8, BioMarin would like to add that the Project, including the proposed General Plan amendments and rezoning would ensure that ensure the Project is consistent with the City’s General Plan Floor Area Ratio (FAR) and height policies, and is consistent with all other relevant policies in the General Plan. The General Plan highlights this site as a major Downtown redevelopment opportunity that could take advantage of visibility from 2nd and 3rd streets, extend uses on the SRCC, and support the 4th Street core. This type of infill, mixed-use development is consistent with the City’s land use planning documents that all encourage development of underutilized sites in the Downtown that are within walking distance of the transit center.

B1-10

The General Plan land use designation for the Project site is Second/Third Street Mixed Use (2/3MU). The 2/3MU designation allows office and office-support service uses, and residential as part of mixed-use development. Therefore, this mixed-use office and residential Project is consistent with the allowable uses in the General Plan for this designation. However, BioMarin’s portion of the Project will require a General Plan amendment and PD amendment to be consistent with the land use policy regulating floor area ratio (FAR) (Policy LU-9 Intensity of Nonresidential Development) and maximum height restrictions in the General Plan and PD zoning.

FAR

As explained in the Project Description, the General Plan and Zoning Ordinance (Section 14.16.150) allow for a maximum FAR of 1.5 on the Project site, which equates to approximately 200,000 square feet of new development allowed on the site. With its donation of land to the Whistlestop/Eden Housing project and resulting smaller land area square footage for its own project, the BioMarin project would require a FAR of 1.75.

B1-11

However, by expanding the SRCC PD district to incorporate BioMarin’s portion of the Project and blending the FAR, the overall FAR in the expanded PD district with BioMarin’s portion of the Project would only be 0.90. The Project includes a proposed General Plan amendment to blend the maximum FAR across the expanded BioMarin campus so that it is 0.90 (blended), which would allow the BioMarin portion of the Project to be constructed as proposed with the Whistlestop/Eden Housing project located at the northwest corner of the site. The General Plan amendment would amend Exhibit 6 in the Land Use

¹ Plan Bay Area 2040, Strategies and Performance, available here: <http://2040.planbayarea.org/strategies-and-performance>

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Element. The corresponding map in Section 14.16.150 of the Zoning Ordinance (Title 14 of the Municipal Code) would also be amended. In addition, the following policy would be added to LU-9:

Within a Downtown Planned Development, a blended floor area ratio (FAR) may be used to establish the maximum allowable floor area for nonresidential development. The maximum floor area allowed for subareas of the PD, calculated using the ratios shown in Exhibit 6, can then be combined and allocated among buildings within the PD without regard to the specific FAR for an individual building site, provided that the total allowable floor area for the PD is not exceeded.

B1-11

Because the BioMarin’s portion of the Project is the only Downtown Planned Development, this General Plan Amendment applies only to BioMarin’s portion of the Project. Any new site that could take advantage of this General Plan amendment would first need to be rezoned, which would be a new and separate discretionary action subject to its own CEQA review.

Height

Also as explained in the Project Description of the Draft EIR, the Project includes a General Plan amendment to add the 999 3rd Street site to the list of locations in General Plan Exhibit 10 where a new height bonus would be allowed in return for provision of specified amenities and community benefits. The General Plan recognizes that flexibility is warranted when special circumstances occur. Here, a General Plan amendment to change the maximum allowable building height is necessary for the development of a biotech campus. R&D and laboratory space have greater requirements for floor to floor heights (17 feet to 19 feet) than those of a traditional office building (13 feet to 14 feet) due to programmatic and equipment-related requirements. The Project site is also located in a flood zone, and the ground-level slab of the proposed buildings must be raised to meet Federal Emergency Management Agency (FEMA) requirements. The proposed maximum height of 72 feet would accommodate efficient four-story R&D laboratory buildings and the specialized infrastructure they require, as well as the elevation of the ground floor at the low point of the site, in order to meet the standards for flood protection and stormwater management. The proposed General Plan amendment to allow a 20-foot height bonus would be specific to the Project site and would not change the height allowances or public benefits for the main SRCC parcels.

B1-12

The Project also includes an amendment to the Building Height in the existing PD zoning district. The PD text amendment that accomplishes this change is to amend the “Building Height Development Standard” from “54 feet” to “54 feet, plus a 20-foot building height bonus.”

Land Use Policy LU-2

We note that City has concluded that because the Project would have significant an unavoidable traffic impacts, the Project is inconsistent with Land Use Policy LU-2 (Development Review), and that this represents a significant and unavoidable impact. However, Land Use Policy LU-2a gives the City the ability to waive or modify any policy within Land Use Policy LU-2 “if it determines that the effect of implementing the same in the issuance of a development condition or other approvals would be to preclude all economically viable use of a subject property.” Here, the City has required BioMarin to enhance its TDM program to ensure there is a 15% reduction in vehicle trips per day. Redevelopment of the Project site supports the City’s goals of economic development, downtown vibrancy, affordable senior

B1-13

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housing, and transit-oriented development. As explained above, it is not economically feasible for BioMarin to construct a smaller campus because it would not accommodate its growing workforce. As such, it is entirely reasonable for the City to waive this policy.

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B1-13

Noise

BioMarin recognizes the impact of construction activities on the surrounding community and will design the construction work for our portion of the Project to be fully protective of the safety of site workers and the surrounding community. As with our current remediation work on the Project site, we will commit to monitor the Project construction work and remediate any noise, vibration, dust, and health hazards associated with such work. With regard to Mitigation Measure Noise-1a, BioMarin agrees that it is reasonable to require noise reducing measures to ensure that construction noise does not exceed the City of San Rafael’s Ordinance level of 90 dBA. However, BioMarin disagrees that it is appropriate to restrict the operation of our work to only one piece of noise generating equipment within 40 feet of Whistlestop/Eden Housing once the Whistlestop/Eden Housing portion of the Project is complete. So long as BioMarin maintains a sufficient monitoring program and the operation of all equipment stays below the maximum level of 90 dBA, BioMarin should not be restricted from operating multiple pieces of equipment at one time.

B1-14

Transportation

Similar to our comment above regarding aesthetics, parking impacts of this infill project are exempt from environmental review under CEQA section 21099.

With regards to Mitigation Measure TRANS-1, BioMarin is committed to enhancing our existing TDM program to reduce daily vehicle trips by 15%. We would appreciate any further clarity from the City on how this Mitigation Measure will be implemented for the two phases (Building A in Phase I, and Building B in Phase II) of BioMarin’s portion of the Project.

B1-15

With regards to Mitigation Measure TRANS-8 and Trans-10, BioMarin employees will cross the Lindaro at the improved crosswalk at the intersection of 3rd Street and Lindaro. The BioMarin portion of the Project would not need or use the proposed crosswalk at 3rd and Brooks Street and would therefore not have any impacts at that intersection. Further, with regard to Mitigation Measure Trans-10, BioMarin disagrees that use of a Pedestrian Hybrid Beacon is appropriate at the 3rd and Brooks Street intersection. BioMarin understands that the City previously installed a signalized beacon for crossing at this intersection, but removed it in 2011 due to safety concerns. Moreover, the beacon would create a nuisance for the residents of the Whistlestop/Eden Housing project.

Utilities

The Draft EIR states that the Redwood Landfill is estimated to cease operations in 2024, but does not offer an alternative landfill. BioMarin notes that the Potrero Hills Landfill (located in Suisun City) could be a viable option once the Redwood Landfill closes. The Potrero Hills Landfill has a permitted capacity

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B1-16

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of 83,100,000 cubic yards, a remaining capacity of 13,872,000 cubic yards, and is estimated to cease operation in 2048.2

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B1-16

Thank you for your consideration of our comments. If you have any questions, please feel free to contact Shar Zamanpour at (415) 382-5726 or me.

Regards,



Shar Zamanpour
Director, Campus Planning and Design
BioMarin Pharmaceutical Inc.

² Potrero Hills Landfill (48-AA-0075), <https://www2.calrecycle.ca.gov/swfacilities/Directory/48-AA-0075/>

LETTER B1**BioMarin Pharmaceutical Inc.**

- B1-1 This comment describes the BioMarin company background and justification for the project, and does not specifically address the DEIR.
- B1-2 The alternatives evaluated in the DEIR were designed to meet the requirements of the California Environmental Quality Act (CEQA). As explained in Chapter 5, Alternatives, of the DEIR (page 5-1), the CEQA Guidelines require that the discussion focus on alternatives capable of avoiding or substantially lessening any of the significant effects of the project. This approach allows decision-makers to review the alternatives to understand options for reducing impacts created by specific projects.
- Alternative 2, the Reduced Scale Alternative, was developed primarily as a way to reduce the trip generation of the project. For this project, the potential trip generation resulted in significant, unavoidable traffic impacts that could only be eliminated by significantly reducing the scale of the project. That said, it may be true that the reduction identified in Alternative No. 2 may result in a project that is not feasible for BioMarin, and may also eliminate the possibility of the Whistlestop/Eden Housing project being constructed, as stated in the fifth paragraph on page 5-10 of the DEIR.
- The applicant states that many of the project objectives would not be met if this alternative were selected. However, the assumption in this statement is that the project would not merely be downsized, but instead would not be built. Alternative 1, the No Project Alternative, assumes no construction of the project, and the DEIR (page 5-6) clearly states that the No Project Alternative would not meet any of the project objectives. If the project were reduced in scale (rather than not built), many of the project objectives could still be met, and if the Whistlestop/Eden Housing project were still built (as assumed in Alternative 2), the objectives related to this senior housing project would still be met.
- B1-3 As stated on page 5-26 of the DEIR, Alternative 4 (Code-Compliant BioMarin and Whistlestop/Eden Housing Project) may provide less square footage of laboratory space than the project and would not meet the objective related to use of larger parking structures on the perimeter of the BioMarin campus. As described in the response to Comment B1-2 above, if BioMarin chose not to pursue this alternative because project objectives would not be met, the result would be the No Project Alternative, which is also evaluated in the DEIR. No change in DEIR text is required.
- B1-4 The reference to a “new” Planned Development (PD) zoning district for the project site (on page 3-11 in Chapter 3, Project Description, of the DEIR) specifically relates to the proposed rezoning. Elsewhere in Chapter 3, the proposed PD zoning is described as an expansion (or “amendment”) of the existing adjacent PD zoning district of the San Rafael Corporate Center (SRCC).
- B1-5 A formal transit priority designation has not been given to the project site. That said, a project located on a site within ½ mile of a major transit stop (as the project site is) may qualify for streamlining under state law. This streamlining would include an exemption from an analysis of aesthetic impacts. At the time of DEIR preparation, this exemption was not raised as an issue. However, no significant visual impacts from the project were identified and no mitigation measures were needed (see Section 4.1, Aesthetics, of the DEIR).

- B1-6 This comment suggests that although the project would not be using drilled piers, a drill rig (for pile driving) was incorrectly added to the default construction equipment list in the DEIR. The reason why a drill rig was included is that the Whistlestop/Eden Housing portion of the project would use torque down piles, which would be driven by screwing the piles into the ground with a large drill rig. In response to the comment, modifications to the text in Section 4.2, Air Quality, of the DEIR have been included to clarify the use of the drill rig.

The following revision is made to Table 4.2-5 on page 4.2-13 of the DEIR:

CalEEMod applies default equipment usage and phase lengths based on the findings of an extensive construction survey that included over 65 construction sites. Based on the project input parameters described in Table 4.2-4, CalEEMod estimated that construction of the proposed project would be similar to a 5- to 10-acre construction site included in their survey. The corresponding default equipment usage and construction phase lengths for a project of this size were used to estimate the total hours of equipment operation (and associated emissions) required to construct the proposed project. A drill rig (for screwing torque down piles~~pile driving~~) was added to the default construction equipment list.

- B1-7 Senate Bill (SB) 18 deals with General Plan amendments. The noticing requirements described in this comment would be a separate task for the City of San Rafael, unrelated to the EIR. According to City staff, however, the City complied with AB 52 and SB 18 at the same time when the application was filed.
- B1-8 This comment suggests that the DEIR analysis of greenhouse gas emissions should elaborate on why the project would be consistent with the Climate Change Action Plan (CCAP) and would result in a less-than-significant impact. The comment also provides additional features of the project that could be added to Table 4.6-3 of the DEIR to demonstrate the project's consistency with the CCAP. In response to the comment, modifications to the text in Section 4.6, Greenhouse Gas Emissions, of the DEIR have been included to further elaborate on and demonstrate the project's consistency with the CCAP.

The following revision is made to the discussion under "Thresholds of Significance" on page 4.6-11 of the DEIR:

The BAAQMD has adopted and incorporated GHG thresholds of significance into its CEQA Guidelines (BAAQMD, 2017a) to assist lead agencies in evaluating and mitigating air quality impacts under CEQA. According to the BAAQMD, if a project, including stationary sources, is located in a community with an adopted qualified GHG Reduction Strategy, the project may be considered less than significant if it is consistent with the GHG Reduction Strategy. The decision in Center for Biological Diversity v. Department of Fish and Wildlife (2015) (62 Cal. 4th 204, 228-230) also concluded that a project's consistency with a local climate action plan and with a Regional Sustainable Communities Strategy (SCS) can be used to evaluate the cumulative impact of a project on GHG emissions. A project must demonstrate its consistency by identifying and implementing all applicable feasible measures and policies from the GHG Reduction Strategy into the project. The City of San Rafael's CCAP 2030 is considered a qualified GHG Reduction Strategy.

The following additions are made to Table 4.6-3 on page 4.6-12 of the DEIR (see also the response to Comment B2-4):

TABLE 4.6-3 PROJECT CONSISTENCY WITH CITY OF SAN RAFAEL CLIMATE CHANGE ACTION PLAN (CCAP) 2030

Strategy	Measure	Project Consistency	
Low Carbon Transportation	<u>LCT-C1: Zero Emission Vehicles</u>	<u>The proposed project would install electric vehicle chargers.</u>	
	<u>LCT-C2: Bicycling</u>	<u>The proposed project would include bicycle access and on-site bicycle parking.</u>	
	<u>LCT-C3: Walking</u>	<u>The proposed project would donate funds to enhance pedestrian safety with improved sidewalks and crosswalk designs. The proposed project is consistent with the City's Bicycle and Pedestrian Master Plan and Complete Streets Program.</u>	
	<u>LCT-C5: Public Transit</u>	<u>The proposed project would be located two blocks west of the San Rafael Transit Center. The center includes 13 Marin Transit routes, eight Golden Gate Transit routes, and one Sonoma County Transit route. The Sonoma-Marin Area Rail Transit (SMART) San Rafael station is also located approximately two blocks or 950 feet east of the project site. The train provides service to cities and other destinations to the north, including Novato, Petaluma, Santa Rosa, and the Sonoma County Airport.</u>	
	<u>LCT-C6: Employee Trip Reduction</u>	<u>The BioMarin project would be subject to the existing Transportation Demand Management (TDM) program. In addition, Mitigation Measure TRANS-1 would require the BioMarin project to expand its existing TDM program such that daily vehicle trips would be further reduced by 15 percent.</u>	
	<u>LCT-C9: Smart Growth Development</u>	<u>The proposed project is an infill and mixed-use development located within ½ mile of major transit stops. The project would provide affordable housing for low-income seniors, whose automobile ownership would be prohibited by lease requirements. The traffic study applied a 23-percent reduction to the daily trip generation calculation based on characteristics of the project and surrounding area (such as the distance to transit).</u>	
	Energy Efficiency	<u>EE-C3: Cool Pavement and Roofs</u>	<u>The BioMarin project would include an exterior shade trellis on the south sides of the building to provide shading for the building façade and reduce heating of exterior materials.</u>
		<u>EE-C4: Green Building Reach Code</u>	<u>In accordance with the City of San Rafael's current Green Building Ordinance, the Whistlestop/Eden Housing project and the BioMarin project would comply with the State of California's Green Building Standards Code (CALGreen Code) and include energy-saving elements as described in the project description. In addition, the lobby for the Whistlestop/Eden Housing project would have a glass storefront entry that would provide natural light to the lobby, reducing the need for electric lighting and potentially maximizing energy savings. The building would also be designed to meet Green-Point Rated or Leadership in Energy and Environmental Design (LEED) standards of sustainability, with reduced energy and water use. Both BioMarin Building A and BioMarin Building B would be oriented with the long east/west axis of the project site to allow more sunlight into the buildings; this orientation could potentially maximize energy savings. The BioMarin project would include energy-saving light-emitting diode (LED) driveway and parking lot lights.</u>
		<u>EE-M3: Energy Conservation</u>	<u>The proposed Whistlestop/Eden Housing project would include high-efficiency lighting and occupancy sensors.</u>
Renewable Energy	<u>RE-C1: Renewable Energy Generation</u>	<u>All buildings in the proposed project would be designed to accommodate solar roof systems that could be installed at some point in the future.</u>	
Waste Reduction	<u>WR-C2: Residential Organic Waste</u>	<u>Operations of the proposed Whistlestop/Eden Housing project would include informational sessions for residents of the project on curbside collection services and home composting for food waste.</u>	

Strategy	Measure	Project Consistency
Water Conservation	WC-C1: Community Water Use	The BioMarin project would reduce landscape water demand (relative to conventional landscape design) by installing permeable paving that adds water to the subsoil for all landscape trees east of the new buildings. The project site would also be furnished with complete automatic remote control irrigation system with Model Water Efficient Landscape Ordinance (MWELO)-compliant irrigation flow sensors, valves, and controllers. Equipment would be compatible with any future reclaimed water source that may become available.
<u>Sequestration and Adaptation</u>	<u>SA-C1: Urban Forest</u>	<u>There are no existing trees on the project site. The design of the proposed project would include landscaping with local planting materials and large trees. In addition, the proposed project would include installation of bioretention planters and pervious concrete pavers throughout the site, and provide ongoing maintenance of the bioretention facilities.</u>

Source: City of San Rafael, 2019. CCAP 2030.

B1-9 This comment describes SB 375 and the project’s consistency. In response to the comment, additional text has been included in Section 4.6, Greenhouse Gas Emissions, of the DEIR to describe the project’s consistency with SB 375.

The following revision is made to the discussion on page 4.6-11 of the DEIR:

As shown in Table 4.6-3, the proposed project would be consistent with local measures identified in the CCAP 2030 to reduce GHG reduction measures. Table 4.6-3 also demonstrates that the proposed project is a mixed-use development within ½ mile of major transit stops and is therefore consistent with SB 375. Therefore, the GHG emissions generated by the project would have a less-than-significant impact on the environment.

B1-10 The first part of this comment addresses why the project is consistent with City policies. It is true that the project is consistent with many policies listed on pages 4.9-5 through 4.9-8 of the DEIR. The second part of the comment addresses consistency with the project site’s General Plan designation and explains why a General Plan amendment would be needed to address floor area ratio (FAR) and height restrictions. These issues are addressed in Section 4.9, Land Use and Planning, of the DEIR.

B1-11 This comment addresses the portion of the proposed General Plan amendment that relates to FAR. The proposed text for General Plan Policy LU-9 and related issues described in this comment are clearly addressed on pages 3-14 and 3-15 of the DEIR.

B1-12 Similar to Comment B1-11, this comment addresses project description elements that are all covered in Chapter 3, Project Description, of the DEIR.

B1-13 It is true that the City can waive the policy related to ensuring adequate traffic conditions and circulation improvements. However, it was important to address this potential impact as related to the land use significance criterion addressing environmental impacts due to a conflict with policy (see “b” on DEIR page 4.9-8). The City’s ability to waive this policy requirement is clearly outlined under “Program LU-2a” on page 4.9-5 of the DEIR.

- B1-14 This comment suggests that BioMarin would maintain a monitoring program to ensure that noise from all construction equipment would be below the maximum level of 90 dBA L_{max} .

The following revision is made to Mitigation Measure NOISE-1a on page 2-10 and page 4.10-18 of the DEIR:

Mitigation Measure NOISE-1a: The BioMarin project applicant shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications: After the Whistlestop/Eden Housing project is completed and housing residents, the BioMarin project applicant shall require that the construction contractor for BioMarin Building A and BioMarin Building B not operate more than one piece of noise-generating equipment (listed in Table 4.10-10) within 40 feet of the Whistlestop/Eden Housing project. This would ensure that the 90 dBA L_{max} is not exceeded at the Whistlestop/Eden Housing project implement a noise monitoring program during construction. The details of the construction noise monitoring program (described further below) shall be included in applicable contract specifications and be submitted to the City of San Rafael Building Division for approval before construction.

A noise monitoring program shall include collecting noise level measurements at the Whistlestop/Eden Housing project during all phases of construction of the BioMarin project. A qualified acoustical consultant shall collect the noise level measurements, and shall select the timing and location of the measurements to be as close to future residents of the Whistlestop/Eden Housing project as possible. Consistent with the San Rafael Municipal Code, noise levels shall be measured on an A-weighted scale with a sound level meter (Type 1 or 2). For constant noise sources, the meter shall be set for slow or fast response speed and L_{eq} shall be used. For intermittent sound, the meter shall be set for fast response speed and L_{max} shall be used.

The monitoring results and the associated data interpretation that focuses on whether the construction activity is in compliance with applicable thresholds shall be reported to the City of San Rafael Building Division. If construction noise exceeds 90 dBA L_{max} at the Whistlestop/Eden Housing project, additional noise attenuation measures shall be implemented to reduce construction noise and to ensure the operation of all construction equipment (listed in DEIR Table 4.10-10) to be below 90 dBA L_{max} at the Whistlestop/Eden Housing project. The noise attenuation measures may include, but are not limited to, the erection of a Sound Transmission Class (STC) rated wall or a plywood wall around the construction site. The BioMarin project applicant shall implement the approved monitoring program during construction.

- B1-15 CEQA Section 21099 applies to projects in “transit priority areas”. The project site is not formally designated as a “transit priority area”; see the response to Comment B1-5 above. As states on DEIR page 4.13-19, however, parking is not an issue considered under CEQA.

Implementation of Mitigation Measure TRANS-1 would be required upon occupancy of BioMarin Building A in Phase 1, as well as upon occupancy of the Whistlestop/Eden Housing building. When Building B in Phase 2 is occupied, Mitigation Measure TRANS-1 would apply to both BioMarin buildings, plus the Whistlestop/Eden Housing building.

In regards to Mitigation Measure TRANS-8, it is likely that some BioMarin employees and visitors would cross 3rd Street at Brooks Street, and therefore, in the opinion of the EIR preparers, the mitigation measure should remain as stated in the DEIR.

The Pedestrian Hybrid Beacon recommended at 3rd Street and Brooks Street as part of Mitigation Measure TRANS-10 would include curb ramp improvements at the sidewalks and the installation of a marked crosswalk across 3rd Street. Pedestrian Hybrid Beacons are activated by pedestrians and include WALK, flashing DON'T WALK, and solid DON'T WALK signals for pedestrians, as well as solid red, flashing red and yellow lights for motorists. Such an installation would provide a signalized and controlled crossing of 3rd Street with protected signal phasing for pedestrians. Several years ago, there was an uncontrolled pedestrian crosswalk that did not include controlled traffic signals or signalized beacons. The proposed mitigation measure would improve safety and convenience for crosswalk users.

- B1-16 Comment noted. It would be speculative for the EIR to identify an alternative for the Redwood Landfill, which is not scheduled for closure until 2024 (as stated on page 4.15-3 of the DEIR).



September 19, 2019

Mr. Sean Kennings, Contract Planner
City of San Rafael
Community Development Department
1400 Fifth Avenue, 3rd Floor
San Rafael, CA 94901

22645 Grand Street
Hayward, CA 94541

510.582.1460 Phone
510.582.6523 Fax

RE: Draft EIR for the BioMarin and Whistlestop/Eden Housing Project
Written Comments

Dear Mr. Kennings,

Thank you for the opportunity to comment on the BioMarin and Whistlestop/Eden Housing Project draft Environmental Impact Report.

Founded 65 years ago in 1954, Whistlestop is a non-profit with the mission is to ensure that every adult has the opportunity to age with independence, dignity and grace. Whistlestop provides a comprehensive hub of human needs services for Marin County's older adults and individuals with disabilities. These services include special needs transportation, nutrition, preventive health, job training, classes and activities, multicultural outreach and assistance, and a comprehensive information and referral help desk.

Eden Housing is also a mission-based nonprofit and one of the largest affordable housing providers in the state of California. The mission of Eden Housing is to build and maintain high-quality, well-managed, service-enhanced affordable housing communities that meet the needs of lower income families, seniors, and persons with disabilities. Since its founding in 1968, Eden Housing has developed more than 10,000 units of affordable housing, and today provides homes to more than 22,000 residents at rents they can afford so they have the foundation to live productive and successful lives.

Together, Whistlestop and Eden Housing propose to develop the Healthy Aging Campus on the northwest corner of the 999 Third St. parcel, in partnership with BioMarin as they expand their facilities. We appreciate the opportunity to comment on the DEIR. In several instances, we concur with comments that BioMarin is providing in a separate letter and have noted as such.

DEIR Comments:

- 1. Alternatives. Please see BioMarin's comments. We agree with and echo their comments. We would also like to particularly emphasize that the Whistlestop/Eden project is only possible through our partnership with BioMarin and their ability to develop their facilities as proposed.
2. Aesthetics. Please see BioMarin's comments. We agree with and echo their comments.
3. Greenhouse Gas Emissions. Please see BioMarin's comments. We agree with and echo their comments. With regards to the Climate Change Action Plan, we also note that the Whistlestop/Eden Housing Healthy Aging Campus is consistent with the following additional measures:
a. EE-M3: Energy Conservation. The Whistlestop/Eden Housing project will include high efficiency lights on occupancy sensors to reduce energy consumption.

B2-1

B2-2

B2-3

B2-4



- b. **WR-C2: Residential Organic Waste.** Informational sessions will be available to residents to educate and motivate residents to utilize the curbside collection services and home composting for food waste.

B2-4

4. **Transportation.** Please see BioMarin’s comments. We agree with and echo their comments. We have the following additional comments:

- a. **Impact TRANS-8 and Mitigation Measure TRANS-8:** Since the BioMarin and Whistlestop/Eden Housing buildings will be constructed at separate times, please separate out the responsibility of curb improvements of each intersection. We believe Whistlestop/Eden Housing should have responsibility for the 3rd Street and Brooks Street intersection, and BioMarin should have responsibility for the other intersections (3rd Street and Lindaro Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street).

B2-5

- b. **Impact TRANS-10 and Mitigation Measure TRANS-10:** Whistlestop/Eden Housing disagree that a crosswalk and pedestrian beacon should be installed on 3rd Street at Brooks Street. We believe adding the crosswalk and pedestrian beacon would be inconsistent with San Rafael General Plan 2020 Program C-4 (Safe Road Design). There previously was a crosswalk at this location but was removed in 2011 by the city’s public works department citing safety concerns. That study (see attached document) found only 15 pedestrians used that crosswalk during peak travel hours, and the city had decided that for a busy thoroughfare such as 3rd Street, a crosswalk should not exist in that location. The public works director at the time had also noted that flashing lights, such as what would be provided in a pedestrian beacon, likely would not improve the situation. The crossings at 3rd/A Street or 3rd/Lindaro Street are safe and within short distances from the project. While nice in concept, we are concerned that in practice, a crosswalk at 3rd/Brooks crossing would not be safe for pedestrians, especially Whistlestop/Eden Housing users who are older adults and/or have disabilities.

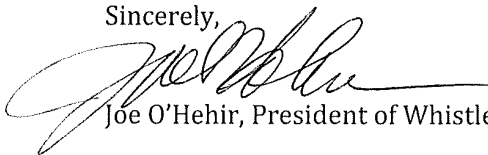
B2-6

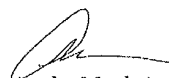
- c. **Impact TRANS-12 and Mitigation Measure TRANS-12:** We disagree that the Whistlestop/Eden Housing project’s egressing driveway would have limited sight lines to Brooks Street. The driveway egress is not different than other driveway egresses in downtown San Rafael and also has the benefit of not having parked cars obstructing sight lines to Brooks Street. We do not agree with the measure to install systems that provide vehicle-activated audible and visual warnings. We particularly disagree with audible warnings in either the BioMarin or Whistlestop/Eden Housing driveway egresses, as the noise will be disruptive to the Whistlestop/Eden Housing senior residents and users. As the frequent SMART train horn noise has been disruptive to San Rafael residents, we have concerns that a vehicle-activated noise-emitting system will be similarly disruptive.

B2-7

Thank you for your consideration. If you have any questions, please feel free to reach out to Susie Criscimagna at (510) 247-8130.

Sincerely,


 Joe O'Hehir, President of Whistlestop


 Andy Madeira, SVP of Eden Housing

CITY OF SAN RAFAEL, CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

INTERDEPARTMENTAL MEMORANDUM

TO: KEVIN MCGOWAN **DATE: AUGUST 31, 2011**
ASSISTANT PUBLIC WORKS DIRECTOR

FROM: LESLIE BLOMQUIST **FILE NO: 18.06.60**
ASSOCIATE CIVIL ENGINEER

SUBJECT: CROSSWALK REMOVALS ON THIRD STREET (TWO LOCATIONS)

An analysis of two existing, uncontrolled crosswalks located on Third Street within the downtown San Rafael area was conducted in order to determine if their removal is warranted. The proposed locations for crosswalk removals include Third Street at Brooks Street and Third Street at Cijos Street.

Currently, there are no specific requirements which state when crosswalks should be removed or installed. However, the Federal Highway Administration (FHWA) published a report entitled "Safety Effects of Marked Versus Unmarked Crosswalks at Uncontrolled Locations: Final Report and Recommended Guidelines" in September 2005 which provides recommendations on when to install marked pedestrian crossings at uncontrolled intersections. For the basis of this analysis, the recommendations included in the FHWA report have been used as a tool to determine if the removals of the crosswalks at the two previously mentioned locations are warranted.

The FHWA report recommends that installation of uncontrolled pedestrian crosswalks be evaluated based on the following items:

- Pedestrian volume
- Average Daily Traffic (ADT)
- Vehicular approach speeds
- Sight distance
- Distance to nearby controlled crosswalks

These items, as well as collision history data, will be used to determine if the removals of the uncontrolled crosswalks are warranted.

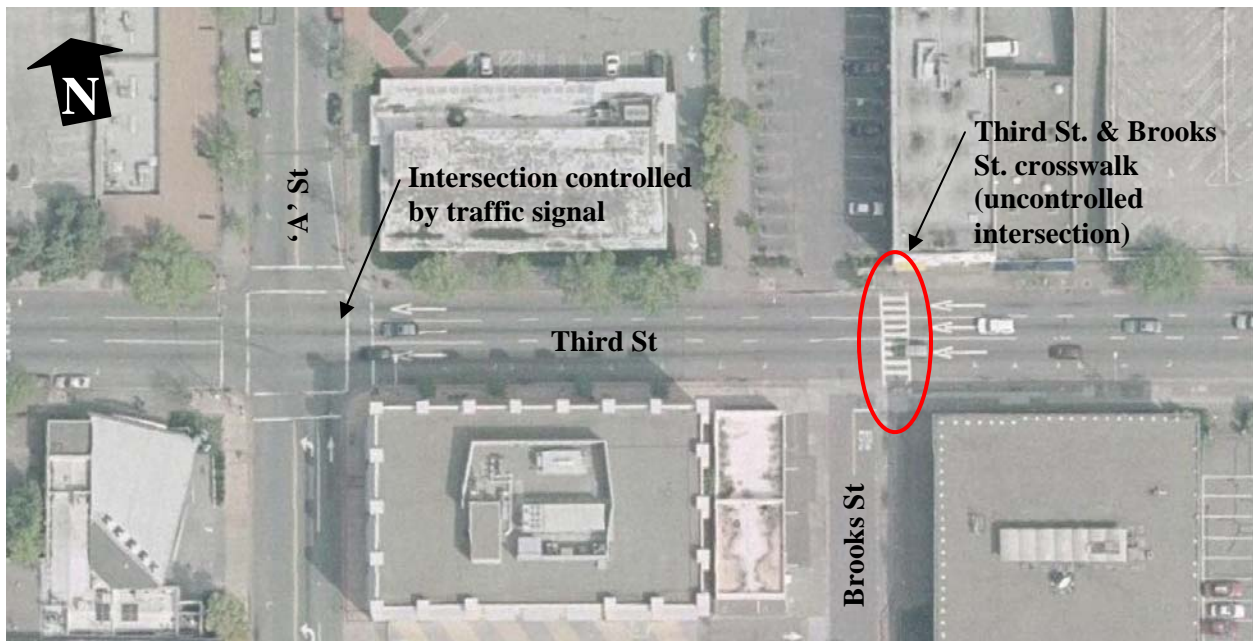
Each of the two proposed locations for crosswalk removals are located at intersecting roadways which have sidewalks on both sides. The California Vehicle Code Section 275(a), defines a crosswalk as "that

portion of a roadway included within the prolongation or connection of the boundary lines of sidewalks at intersections where the intersecting roadways meet at approximately right angles”. This definition does not require any markings to be placed on the ground; therefore, the proposed removal of the previously mentioned locations will not prohibit pedestrians to continue to legally cross the roadways at these locations, but will encourage them to do so elsewhere. Installation of barricades, with no pedestrian crossing signs, will prohibit pedestrians from crossing at these locations altogether and can direct pedestrians to utilize a controlled crossing location.

Third Street and Brooks Street

Third Street, near Brooks Street, is a one-way, three-lane roadway traveling in the westbound direction with on-street parking permitted on the south side of the roadway. An existing marked, uncontrolled pedestrian crosswalk extends across Third Street, on the eastern side of its intersection with Brooks Street, as illustrated in Figure 1.

Figure 1: Third Street and Brooks Street Vicinity



Pedestrian Volume

The FHWA report states “that a minimum utilization of 20 pedestrian crossings per peak hour” should be present for the installation of an uncontrolled pedestrian crosswalk. As shown in Table 1 below, for the crosswalk on Third Street east of Brooks Street, **the minimum recommended number of pedestrians is not present during both the AM and PM peak hours.** Copies of the turning movement counts are attached.

Table 1: Pedestrian Counts at the Crosswalk on Third Street East of Brooks Street

Time Period		Thursday	Tuesday	Thursday	Tuesday	Average
		6/16/2011	4/28/2009	3/6/2008	3/26/2002	
AM Peak	7:00-8:00			0	2	1
	8:00-9:00			5	14	10
Midday Peak	11:00-12:00	22	28	14		21
	12:00-13:00	13	19	22		18
	13:00-14:00				29	29
	14:00-15:00				24	24
PM Peak	16:00-17:00			15	11	13
	17:00-18:00			6	7	7

Bold numbers indicate it meets FHWA minimum recommendations

Field observations during the count collections indicate that some of the pedestrians in the Table 1 above are from Kaiser Permanente, which is located on the south side of Third Street between “A” Street and Brooks Street. Without the crosswalk at Brooks Street, pedestrians from Kaiser Permanente would cross at “A” Street, which is controlled by a traffic signal and has pedestrian signal heads installed to direct pedestrians when to safely cross Third Street.

Field counts also indicated on average one pedestrian per hour crossed Third Street at Brooks Street on the west side of the intersection without using a marked crosswalk.

Average Daily Traffic

Average Daily Traffic (ADT) counts collected between August 19 and 26, 2011 show that 24,187 vehicles travel along this portion of Third Street each day. According to the FHWA recommendations, adding uncontrolled crosswalks “for three-lane roads...is generally not recommended for ADTs greater than 12,000.” The existing **ADT along Third Street is more than double the maximum recommended ADT for a three-lane roadway** for installation of an uncontrolled crosswalk.

Vehicle Approach Speeds

The posted speed limit on Third Street is 25 miles per hour, however recent radar speed surveys found the 85th percentile speed to be 30 miles per hour.

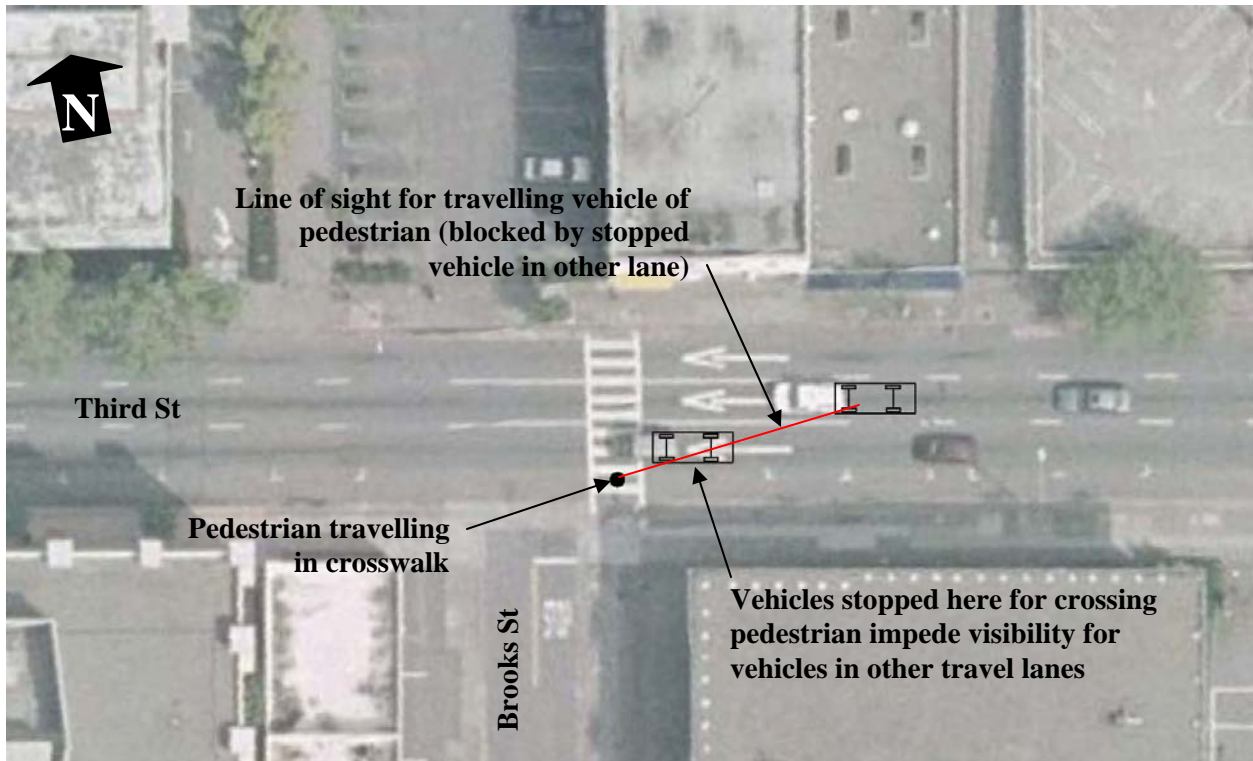
Table 11 of the “Safety Effects of Marked Versus Unmarked Crosswalks at Uncontrolled Locations: Final Report and Recommended Guidelines” states that for three-lane roadways with a speed limit of 30 miles per hour and an ADT of more than 15,000 the installation of an uncontrolled crosswalk would possibly **increase the pedestrian crash risk** if the crosswalk is installed without any other pedestrian facility enhancements.

Sight Distance

Radar speed surveys indicate an 85th percentile speed of 30 mph which is higher than the 25 miles per hour posted speed limit. According to the American Association of State Highway and Transportation Officials (AASHTO) Geometry Design of Highways and Streets, for most drivers adequate stopping sight distance is 106 feet for a vehicle traveling 25 mph and 138 feet for a vehicle traveling 30 mph.

Third Street allows for on-street parking on the southern side of the roadway. There is 28 feet of existing red curb on the south side of Third Street east of the crosswalk. When the existing on street parking spaces on Third Street are utilized, the sight distance of the pedestrians, from a vehicle in the far left lane traveling westbound on Third Street is approximately 90 feet. In addition, when vehicles are traveling in multiple lanes on Third Street, vehicles stopping to allow pedestrians to cross impede on the stopping sight distance by vehicles traveling in the middle and far lanes. In these instances the stopping sight distance for vehicles traveling on Third Street are reduced to approximately 30 feet (see Figure 2).

Figure 2: Third Street and Brooks Street Sight Distance



For all three travel lanes on Third Street, **less than the AASHTO minimum recommended stopping sight distance** is present.

Distance to Nearby Controlled Crosswalks

An existing controlled crosswalk is located at Third Street and 'A' Street, approximately 220 feet west of the crosswalk on Third Street at Brooks Street (See Figure 1). The intersection of Third Street and 'A'

Street is controlled by a traffic signal and has pedestrian signal heads installed to direct pedestrians when to safely cross Third Street.

It is recommended in FHWA's publication that marked crosswalks not be installed at uncontrolled intersections if it is within close proximity to a signalized intersection as pedestrians should be encouraged to cross at the signal. According to standard traffic engineering practice, a distance of 220 feet is considered to be within close proximity. **The spacing between the uncontrolled crossing and the signalized crossing is less than the minimum recommended distance.**

Collision History

A review of the collision history for the previous five years of available data (January 1, 2005 to December 31, 2009) was conducted for the intersection of Third Street and Brooks Street. There **have been two collisions at this location involving pedestrians** within this time.

Recommendation

Because this section of Third Street has an ADT more than double the maximum recommended limit for installation of a crosswalk, the number of pedestrians utilizing the crossing is below the recommended minimum threshold during both the AM and PM peak hours, adequate sight distance is not provided, and the crossing is in close proximity to the controlled crossing of Third Street at 'A' Street, it is **recommended that the uncontrolled pedestrian crosswalk across the east leg of the intersection of Third Street and Brooks Street be removed.** The pedestrians who currently utilize this crosswalk should cross at the nearby signalized intersection of Third Street and 'A' Street.

It is also **recommended that barricades and 'No Pedestrian Crossing' signs be installed** on both sides of Third Street on both the east and west legs of its intersection with Brooks Street in order to prohibit pedestrian crossings at this location.

Third Street and Cijos Street

Third Street, near Cijos Street, is a one-way, three-lane roadway traveling in the westbound direction with no on-street parking. At this intersection, an uncontrolled crosswalk extends across Third Street on the eastern side of the intersection, as illustrated in Figure 3.

Pedestrian Volumes

The FHWA publication states "that a minimum utilization of 20 pedestrian crossings per peak hour" should be present for the installation of an uncontrolled pedestrian crosswalk. As shown in the Table 2, for the crosswalk on Third Street east of Cijos Street, on average **the minimum recommended number**

of pedestrians is not present during AM peak hour. Copies of the turning movement counts are attached.

Figure 3: Third Street and Cijos Street Vicinity



Field observations during the counts collections indicated that many pedestrians are from The Ritter Center – Marin Homeless Safety Net. Currently, in order to utilize the uncontrolled crossing of Third Street at Cijos Street, pedestrians from The Ritter Center walk approximately 100 feet, which includes crossing Ritter Street midblock (without using crosswalk) and walking through a private parking lot. The safest route for pedestrians from The Ritter Center to cross Third Street is to walk approximately 200 feet up Ritter Street and along Third Street to use the crosswalk on the eastern leg of Lindaro Street which is controlled by a traffic signal and has pedestrian signal heads installed to direct pedestrians when to safely cross Third Street.

Table 2: Pedestrian Counts at the Crosswalk on Third Street East of Cijos Street

Time Period		Tuesday	Thursday	Wednesday	Tuesday	Average
		6/14/2011	4/30/2009	3/5/2008	10/30/2007	
AM Peak	7:00-8:00			13	10	12
	8:00-9:00			16	16	16
Midday Peak	11:00-12:00	47	39	17		34
	12:00-13:00	31	39	23		31
PM Peak	16:00-17:00			18	74	46
	17:00-18:00			29	54	42

Bold numbers indicate it meets FHWA minimum recommendations

Field counts also indicated that on average an additional 25 pedestrians crossed Third Street on the western leg of the intersection with Cijos Street where no marked crosswalk is present.

Average Daily Traffic

Average Daily Traffic (ADT) counts collected between August 19 and 26, 2011 show that 24,187 vehicles travel along this portion of Third Street each day. According to the FHWA recommendations, adding uncontrolled crosswalks “for three-lane roads...is generally not recommended for ADTs greater than 12,000.” The existing **ADT along Third Street is more than double the maximum recommended ADT for a three-lane roadway** for installation of an uncontrolled crosswalk.

Vehicle Approach Speeds

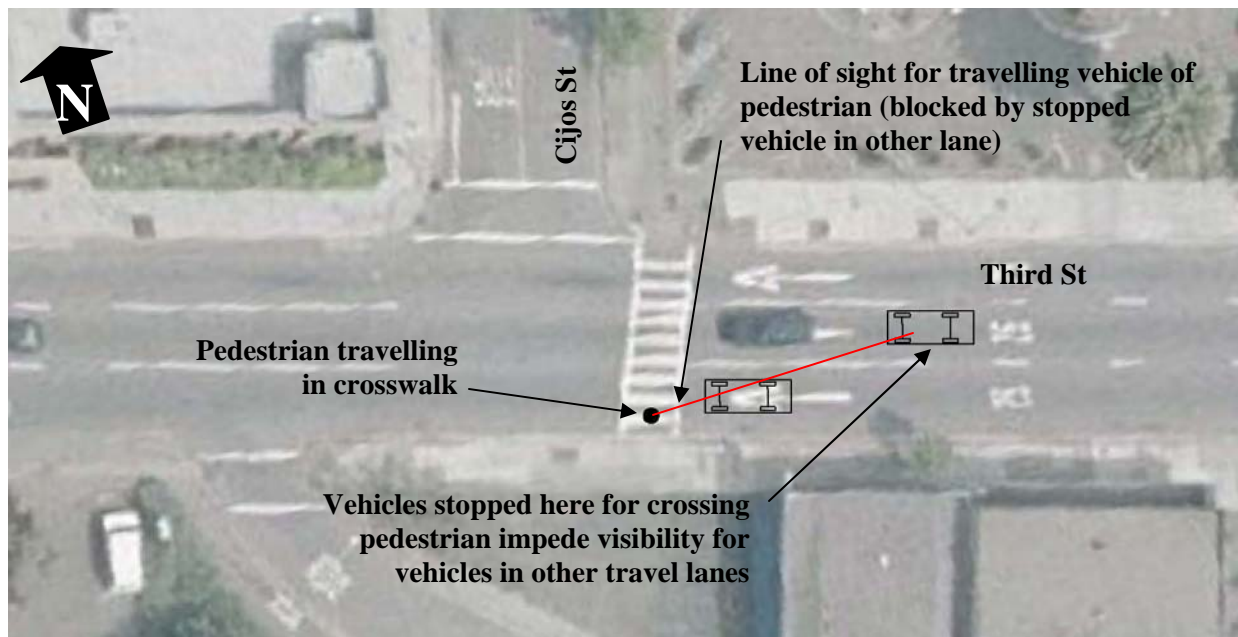
The posted speed limit on Third Street is 25 miles per hour, however recent radar speed surveys found the 85th percentile speed to be 30 miles per hour.

Table 11 of the “Safety Effects of Marked Versus Unmarked Crosswalks at Uncontrolled Locations: Final Report and Recommended Guidelines” states that for three-lane roadways with a speed limit of 30 miles per hour and an ADT of more than 15,000 that installation of an uncontrolled crosswalk would possibly **increase the pedestrian crash risk** if the crosswalk is installed without any other pedestrian facility enhancements.

Sight Distance

Radar speed surveys indicate an 85th percentile speed of 30 mph which is higher than the 25 miles per hour posted speed limit. According to the American Association of State Highway and Transportation Officials (AASHTO) Geometry Design of Highways and Streets, for most drivers adequate stopping sight distance is 106 feet for a vehicle traveling 25 mph and 138 feet for a vehicle traveling 30 mph.

Figure 4: Third Street and Brooks Street Sight Distance



Because there is no on-street parking along this section of Third Street, the minimum recommended stopping sight distance is met for vehicles traveling in the lane adjacent to where pedestrians leave the curb to cross Third Street. However, when vehicles are traveling in multiple lanes on Third Street, vehicles stopping to allow pedestrians to cross impede on the stopping sight distance by vehicles traveling in the middle and far lanes. In these instances the stopping sight distance for vehicles traveling on Third Street are reduced to approximately 30 feet (see Figure 4). For all three travel lanes on Third Street, **less than the AASHTO minimum recommended stopping sight distance** is present during various pedestrian crossing scenarios.

Distance to Nearby Controlled Crosswalks

Existing controlled crosswalks are located at the intersection of Third Street with Lindaro Street, approximately 190 feet west of Cijos Street, and at the intersection of Third Street with Lincoln Avenue, approximately 250 feet east of the Third Street and Cijos Street crosswalk (See Figure 2). Both nearby intersections are controlled by a traffic signals and the intersection of Third Street and Lindaro Street has pedestrian signal heads installed to direct pedestrians when to safely cross Third Street.

It is recommended in FHWA's publication that marked crosswalks not be installed at uncontrolled intersections if it is within close proximity to a signalized intersection as pedestrians should be encouraged to cross at the signal. According to standard traffic engineering practice, a distance of 250 feet is considered to be within close proximity. **The spacing between the uncontrolled crossing and the signalized crossing is less than the minimum recommended distance.**

Collision History

A review of the collision history for the previous five years of available data (January 1, 2005 to December 31, 2009) was conducted for the intersection of Third Street and Cijos Street. There **have been no collisions at this location involving a pedestrian** within this time.

Recommendation

Because this section of Third Street has an ADT more than double the maximum recommended limit for installation of a crosswalk, the number of pedestrians utilizing the crossing is below the recommended minimum threshold during AM peak, adequate sight distance is not provided, and the crossing is in close proximity to multiple controlled crossings of Third Street, **it is recommended that the uncontrolled pedestrian crosswalk across the east leg of the intersection of Third Street and Cijos Street be removed.** The pedestrians who currently utilize this crosswalk should be encouraged to cross at one of the nearby signalized intersections of Third Street and Lindaro Street or Third Street and Lincoln Avenue.

It is also **recommended that barricades and ‘No Pedestrian Crossing’ signs should be installed** on both sides of Third Street on both the east and west legs of its intersection with Cijos Street in order to prohibit pedestrian crossings at this location. It is further **recommended that the existing curb ramp on north side Third Street within the existing crosswalk be removed.**

LETTER B2
Eden Housing

- B2-1 This comment provides an overview of Whistlestop and Eden Housing and does not address the adequacy of the DEIR.
- B2-2 This comment reiterates the points made by BioMarin in Comment B1-2 regarding the feasibility of Alternative 2 (Reduced Scale Alternative). Please refer to the response to Comment B1-2.
- B2-3 Refer to the response to Comment B1-5.
- B2-4 This comment provides additional features of the project that could be added to Table 4.6-3 to demonstrate the project's consistency with the Climate Change Action Plan (CCAP). In response to the comment, additions related to measures of energy conservation and waste generation have been made to Table 4.6-3 of the DEIR. Please refer to the response to Comment B1-8 for these changes.
- B2-5 Responsibilities for curb improvements at each intersection recommended as part of Mitigation Measure TRANS-8 would be addressed by the Mitigation Monitoring and Reporting Program (see Chapter IV of this FEIR) and would be a condition of approval for the project.
- B2-6 Refer to the response to Comment B1-15.
- B2-7 As discussed in Impact TRANS-12 (DEIR page 4.13-26), the two proposed exit driveways to Brooks Street, one from the Whistlestop/Eden Housing project and the other from the BioMarin project access road, would provide limited sight lines to Brooks Street. This condition could lead to increased conflicts between egressing vehicles and other travelers on Brooks Street, including vehicles, pedestrians, and bicyclists. Although there may be some existing driveways in downtown San Rafael that have limited sight lines, provision of new driveways with substandard sight distance would not be acceptable. This condition would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Roadway Design).

Mitigation Measure TRANS-12 (installation of vehicle-activated audible and visual warnings) is recommended to mitigate this potentially significant impact. Refer to response to Comment B1-14 regarding changed text to ensure that residents are not adversely impacted by noise.

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C. PUBLIC HEARING COMMENTS AND RESPONSES

At the public hearing held before the City of San Rafael Planning Commission on September 24, 2019 at the City of San Rafael Council Chambers, only one person testified: Kelle Kacmarcik, an employee of Wildcare (a local organization that cares for and rehabilitates wild animals that have been injured).

After the close of the public hearing, other comments were made by members of the Planning Commission.

All of the comments are summarized below.

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Public Hearing Comments

- C-1 Ms. Kacmarcik, a member of the public, commented that the applicants should consider wildlife-friendly design, with bird-friendly glass and measures to avoid nesting swallow and gulls. She also suggested wildlife-friendly landscaping and shielding of lighting.

The suggestions made can be considered by the project applicants at the time of final architectural design. The issue of wildlife-friendly design is not specifically addressed as a significance criterion in the California Environmental Quality Act (CEQA). Given that the buildings are in the urban center of San Rafael, the issue of bird strikes is not expected to be significant. Also, there are no major bird migratory corridors that pass over the project site.

- C-2 Commissioner Davidson asked how the City is addressing the major traffic issue created by Sonoma-Marín Area Rail Transit (SMART), BioMarín, and large nearby residential projects.

Raffi Boloyan, City of San Rafael Planning Manager, responded to this comment by stated that vehicle miles traveled (VMT) would be required to be addressed by July 2020 but that level of service (LOS) or a similar methodology is likely to remain as part of the San Rafael General Plan. Mr. Boloyan also stated that the City has to decide the right balance between growth and an acceptable LOS, and that further conversations on this issue still need to occur. No specific points on the EIR were mentioned in the comment.

- C-3 Commissioner Schaefer asked about whether LOS can be used in decisions, and if the VMT approach may preclude future traffic analyses.

Refer to the response to Comment C-2.

- C-4 Commissioner Lubamersky stated that the EIR was very complete and that it was time to move forward. However, he had a concern with the project's architecture and was worried that SMART would create a "train wreck."

None of these comments specifically addressed the EIR or any shortcomings in the EIR analysis.

- C-5 Commissioner Samudzi stated that the process was fine and he wanted more background. He wanted to know how the alternatives affected financial feasibility.

Financial feasibility of alternatives is something that can be addressed by the project applicants but is not required to be addressed in the EIR analysis. Refer to the comments from BioMarín as addressed in the response to Comment B1-2.

- C-6 Commissioner Mercado pointed out a concern regarding VMT vs. LOS analyses.

Refer to the response to Comment C-2.

- C-7 Commissioner Loughran expressed concerns about project noise and stated that Whistlestop/Eden Housing residents should be notified (vs. just posting of a sign nearby).

Refer to the response to Comment B1-14. New text has been added to the recommended noise mitigation measure (Mitigation Measure NOISE-1a) to ensure that residents in the Whistlestop/Eden project are not negatively affected during construction of the BioMarin buildings. Mitigation Measures NOISE-1a through NOISE-1d would ensure that adequate protections would be in place for intrusive noise concerns and a monitor would be available to respond to any noise complaints.

Chapter III DEIR TEXT CHANGES



This chapter identifies the text changes to the DEIR, which are made for clarification purposes or in response to comments on the DEIR.

The following revision is made to Table 4.2-5 on page 4.2-13 of the DEIR:

CalEEMod applies default equipment usage and phase lengths based on the findings of an extensive construction survey that included over 65 construction sites. Based on the project input parameters described in Table 4.2-4, CalEEMod estimated that construction of the proposed project would be similar to a 5- to 10-acre construction site included in their survey. The corresponding default equipment usage and construction phase lengths for a project of this size were used to estimate the total hours of equipment operation (and associated emissions) required to construct the proposed project. A drill rig (for screwing torque down piles~~pile driving~~) was added to the default construction equipment list.

The following revision is made to the discussion under “Thresholds of Significance” on page 4.6-11 of the DEIR:

The BAAQMD has adopted and incorporated GHG thresholds of significance into its CEQA Guidelines (BAAQMD, 2017a) to assist lead agencies in evaluating and mitigating air quality impacts under CEQA. According to the BAAQMD, if a project, including stationary sources, is located in a community with an adopted qualified GHG Reduction Strategy, the project may be considered less than significant if it is consistent with the GHG Reduction Strategy. The decision in Center for Biological Diversity v. Department of Fish and Wildlife (2015) (62 Cal. 4th 204, 228-230) also concluded that a project’s consistency with a local climate action plan and with a Regional Sustainable Communities Strategy (SCS) can be used to evaluate the cumulative impact of a project on GHG emissions. A project must demonstrate its consistency by identifying and implementing all applicable feasible measures and policies from the GHG Reduction Strategy into the project. The City of San Rafael’s CCAP 2030 is considered a qualified GHG Reduction Strategy.

The following revision is made to the discussion on page 4.6-11 of the DEIR:

As shown in Table 4.6-3, the proposed project would be consistent with local measures identified in the CCAP 2030 to reduce GHG reduction measures. Table 4.6-3 also demonstrates that the proposed project is a mixed-use development within ½ mile of major transit stops and is therefore consistent with SB 375. Therefore, the GHG emissions generated by the project would have a less-than-significant impact on the environment.

The following additions are made to Table 4.6-3 on page 4.6-12 of the DEIR:

TABLE 4.6-3 PROJECT CONSISTENCY WITH CITY OF SAN RAFAEL CLIMATE CHANGE ACTION PLAN (CCAP) 2030

Strategy	Measure	Project Consistency
Low Carbon Transportation	<u>LCT-C1: Zero Emission Vehicles</u>	<u>The proposed project would install electric vehicle chargers.</u>
	<u>LCT-C2: Bicycling</u>	<u>The proposed project would include bicycle access and on-site bicycle parking.</u>
	<u>LCT-C3: Walking</u>	<u>The proposed project would donate funds to enhance pedestrian safety with improved sidewalks and crosswalk designs. The proposed project is consistent with the City's Bicycle and Pedestrian Master Plan and Complete Streets Program.</u>
	<u>LCT-C5: Public Transit</u>	<u>The proposed project would be located two blocks west of the San Rafael Transit Center. The center includes 13 Marin Transit routes, eight Golden Gate Transit routes, and one Sonoma County Transit route. The Sonoma-Marín Area Rail Transit (SMART) San Rafael station is also located approximately two blocks or 950 feet east of the project site. The train provides service to cities and other destinations to the north, including Novato, Petaluma, Santa Rosa, and the Sonoma County Airport.</u>
	<u>LCT-C6: Employee Trip Reduction</u>	<u>The BioMarin project would be subject to the existing Transportation Demand Management (TDM) program. In addition, Mitigation Measure TRANS-1 would require the BioMarin project to expand its existing TDM program such that daily vehicle trips would be further reduced by 15 percent.</u>
	<u>LCT-C9: Smart Growth Development</u>	<u>The proposed project is an infill and mixed-use development located within ½ mile of major transit stops. The project would provide affordable housing for low-income seniors, whose automobile ownership would be prohibited by lease requirements. The traffic study applied a 23-percent reduction to the daily trip generation calculation based on characteristics of the project and surrounding area (such as the distance to transit).</u>
Energy Efficiency	<u>EE-C3: Cool Pavement and Roofs</u>	<u>The BioMarin project would include an exterior shade trellis on the south sides of the building façade and reduce heating of exterior materials.</u>
	<u>EE-C4: Green Building Reach Code</u>	<u>In accordance with the City of San Rafael's current Green Building Ordinance, the Whistlestop/Eden Housing project and the BioMarin project would comply with the State of California's Green Building Standards Code (CALGreen Code) and include energy-saving elements as described in the project description. In addition, the lobby for the Whistlestop/Eden Housing project would have a glass storefront entry that would provide natural light to the lobby, reducing the need for electric lighting and potentially maximizing energy savings. The building would also be designed to meet Green-Point Rated or Leadership in Energy and Environmental Design (LEED) standards of sustainability, with reduced energy and water use. Both BioMarin Building A and BioMarin Building B would be oriented with the long east/west axis of the project site to allow more sunlight into the buildings; this orientation could potentially maximize energy savings. The BioMarin project would include energy-saving light-emitting diode (LED) driveway and parking lot lights.</u>
	<u>EE-M3: Energy Conservation</u>	<u>The proposed Whistlestop/Eden Housing project would include high-efficiency lighting and occupancy sensors.</u>
Renewable Energy	<u>RE-C1: Renewable Energy Generation</u>	<u>All buildings in the proposed project would be designed to accommodate solar roof systems that could be installed at some point in the future.</u>

Strategy	Measure	Project Consistency
<u>Waste Reduction</u>	<u>WR-C2: Residential Organic Waste</u>	<u>Operations of the proposed Whistlestop/Eden Housing project would include informational sessions for residents of the project on curbside collection services and home composting for food waste.</u>
Water Conservation	WC-C1: Community Water Use	The BioMarin project would reduce landscape water demand (relative to conventional landscape design) by installing permeable paving that adds water to the subsoil for all landscape trees east of the new buildings. The project site would also be furnished with complete automatic remote control irrigation system with Model Water Efficient Landscape Ordinance (MWEL0)-compliant irrigation flow sensors, valves, and controllers. Equipment would be compatible with any future reclaimed water source that may become available.
<u>Sequestration and Adaptation</u>	<u>SA-C1: Urban Forest</u>	<u>There are no existing trees on the project site. The design of the proposed project would include landscaping with local planting materials and large trees. In addition, the proposed project would include installation of bioretention planters and pervious concrete pavers throughout the site, and provide ongoing maintenance of the bioretention facilities.</u>

Source: City of San Rafael, 2019. CCAP 2030.

The following revision is made to Mitigation Measure NOISE-1a on page 4.10-18 (and in the Summary table on page 2-10) of the DEIR:

Mitigation Measure NOISE-1a: The BioMarin project applicant shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications: After the Whistlestop/Eden Housing project is completed and housing residents, the BioMarin project applicant shall require that the construction contractor for BioMarin Building A and BioMarin Building B not operate more than one piece of noise-generating equipment (listed in Table 4.10-10) within 40 feet of the Whistlestop/Eden Housing project. This would ensure that the 90 dBA L_{max} is not exceeded at the Whistlestop/Eden Housing project implement a noise monitoring program during construction. The details of the construction noise monitoring program (described further below) shall be included in applicable contract specifications and be submitted to the City of San Rafael Building Division for approval before construction.

A noise monitoring program shall include collecting noise level measurements at the Whistlestop/Eden Housing project during all phases of construction of the BioMarin project. A qualified acoustical consultant shall collect the noise level measurements, and shall select the timing and location of the measurements to be as close to future residents of the Whistlestop/Eden Housing project as possible. Consistent with the San Rafael Municipal Code, noise levels shall be measured on an A-weighted scale with a sound level meter (Type 1 or 2). For constant noise sources, the meter shall be set for slow or fast response speed and L_{eq} shall be used. For intermittent sound, the meter shall be set for fast response speed and L_{max} shall be used.

The monitoring results and the associated data interpretation that focuses on whether the construction activity is in compliance with applicable thresholds shall be reported to the City of San Rafael Building Division. If construction noise exceeds 90 dBA L_{max} at the Whistlestop/Eden Housing project, additional noise attenuation measures shall be implemented to reduce construction noise and to ensure the operation of all construction equipment (listed in DEIR Table 4.10-10) to be below 90 dBA L_{max} at the Whistlestop/Eden Housing project. The noise attenuation measures may include, but are not limited to, the erection of a Sound Transmission Class (STC)

rated wall or a plywood wall around the construction site. The BioMarin project applicant shall implement the approved monitoring program during construction.

The following revision is made to Mitigation Measure TRANS-11 on page 4.13-26 (and in the Summary table on page 2-15) of the DEIR:

TRANS-11: Vehicle travel on Brooks Street at 2nd Street shall be limited to one-way northbound/~~outbound~~-inbound only. Brooks Street at 3rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works.

Chapter IV

MITIGATION MONITORING AND REPORTING PROGRAM



This Mitigation Monitoring and Reporting Program (see Table IV-1) has been prepared to comply with the requirements of State of California law (Public Resources Code Section 21081.6). State law requires the adoption of a mitigation monitoring program when mitigation measures are required to avoid significant impacts. The monitoring program is intended to ensure compliance during implementation of the project.

This Mitigation Monitoring and Reporting Program has been formulated based upon the findings of the DEIR and the comments received on the DEIR and addressed herein. This Mitigation Monitoring and Reporting Program identifies mitigation measures recommended in the DEIR to avoid or reduce identified impacts, and specifies the agencies/parties responsible for implementation and monitoring of the measure.

The first column identifies the mitigation measure. The second column, entitled "Party Responsible for Ensuring Implementation," lists the person or agency that will undertake the mitigation measures. The third column, entitled "Party Responsible for Monitoring," lists the person or agency responsible for ensuring that the mitigation measure has been implemented and recorded. The fourth column, entitled "Monitoring Timing," identifies when and/or for how long the monitoring shall occur. If an impact was found to be less than significant and did not require mitigation, no monitoring would be required.

TABLE IV-1 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
AIR QUALITY						
<p>AIR-1: During project construction, the contractor shall implement a dust control program that includes the following measures recommended by the BAAQMD:</p> <ul style="list-style-type: none"> ▪ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. ▪ All haul trucks transporting soil, sand, or other loose material off-site shall be covered. ▪ All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. ▪ All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. ▪ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. ▪ A publicly visible sign shall be posted with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District (BAAQMD) phone number shall also be visible to ensure compliance with applicable regulations. <p>The above measures shall be included in contract specifications. In addition, an independent construction monitor shall conduct periodic site inspections, but in no event less than four total inspections, during the course of construction to ensure these mitigation measures are implemented and shall issue a letter report to the City of San Rafael Building Division documenting the inspection results. Reports indicating non-compliance with construction mitigation measures shall be cause to issue a stop work order until such time as compliance is achieved.</p> <p>Implementation of Mitigation Measure AIR-1 would reduce potentially significant impacts of fugitive dust emissions during project construction to a less-than-significant level.</p>	Both applicants' contractors	City	Prior to start of construction and at time of contract specifications			
CULTURAL RESOURCES						
<p>CULT-1: Should an archaeological deposit be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the deposit is found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding</p>	Both applicants' contractors	City	At time of contract specifications and at time of deposit encounter, as applicable			

Notes: "Both applicants" refers to BioMarin and Whistlestop/Eden Housing; "City" refers to City of San Rafael Planning Department

TABLE IV-1 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>and implementing appropriate mitigation measures. Mitigation measures may include recordation of the archaeological deposit, data recovery and analysis, and public outreach regarding the scientific and cultural importance of the discovery. Upon completion of the selected mitigations, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review, and the final report shall be submitted to the Northwest Information Center at Sonoma State University. Significant archaeological materials shall be submitted to an appropriate curation facility and used for public interpretive displays, as appropriate and in coordination with a local Native American tribal representative.</p> <p>The applicant shall inform its contractor(s) of the sensitivity of the project area for archaeological deposits and shall verify that the following directive has been included in the appropriate contract documents:</p> <p>“The subsurface of the construction site may be sensitive for Native American archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include shellfish remains; bones; flakes of, and tools made from, obsidian, chert, and basalt; and mortars and pestles. Contractor acknowledges and understands that excavation or removal of archaeological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”</p>						
<p><u>CULT-2:</u> Mitigation Measure CULT-1 shall be implemented.</p>	See CULT-1	See CULT-1	See CULT-1			
GEOLOGY AND SOILS						
<p><u>GEO-1:</u> The project applicants shall implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans.</p>	Both applicants	City	Prior to issuance of grading and building permits			
<p><u>GEO-2:</u> The project applicants shall implement Mitigation Measure GEO-1.</p>	See GEO-1	See GEO-1	See GEO-1			
<p><u>GEO-3:</u> Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment</p>	Both applicants’ contractors	City	At time of encounter of paleontological resources, as needed			

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TABLE IV-1 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>of the discovery. For purposes of this mitigation, a “qualified paleontologist” shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.</p> <p>If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.</p> <p>The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:</p> <p>“The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”</p>						
HAZARDS AND HAZARDOUS MATERIALS						
<p><u>HAZ-1</u>: Prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that</p>	Both applicants	City		Prior to approval of building permits		

Notes: “Both applicants” refers to BioMarin and Whistlestop/Eden Housing; “City” refers to City of San Rafael Planning Department

TABLE IV-1 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>the project site has been appropriately remediated and appropriate engineering controls have been incorporated into the project design, as necessary, to ensure that future occupants of the project site would not be exposed to unacceptable health risks from hazardous materials in the subsurface of the project site. The Covenant and Agreement to Restrict Use of Property (Covenant) and Operation and Maintenance (O&M) Plan for the project site shall be amended to account for post-remediation conditions of the project site and ensure the engineering controls are operated and maintained such that conditions at the project site remain protective of human health and the environment.</p> <p>Implementation of Mitigation Measure HAZ-1, compliance with the requirements of the Covenant and O&M Plan as required by DTSC, and compliance with existing regulations related to hazardous materials that would be handled during operation of the project would ensure that the proposed project would result in less-than-significant impacts related to accidental releases of hazardous materials during operation.</p>						
HYDROLOGY AND WATER QUALITY						
<p><u>HYDRO-1:</u> Prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the infiltration proposed by the post-construction stormwater management plans would not lead to the spread of existing groundwater contamination or interference with the effectiveness of the groundwater extraction and treatment system located adjacent to the south and southeast of the project site. If DTSC indicates that restrictions to infiltration are necessary, then the post-construction stormwater management plan shall be modified, as appropriate, to limit infiltration. For example, the pervious pavements and bioretention facilities could be underlain by a low permeability liner that would limit infiltration to the subsurface. Any changes to the post-construction stormwater management plan must be approved by DTSC and the City Engineer prior to approval of building permits.</p>	Both applicants	City	Prior to approval of building permits			
<p><u>HYDRO-2:</u> The project applicants shall incorporate the recommendations of the preliminary hydrology study into the project design, and shall complete a final hydrology study based on the final design of the proposed project. The final hydrology study shall verify that peak flows to individual points of drainage around the project site would be limited to at or below existing levels under the final project design, or shall provide recommendations to achieve these limits. The project applicants shall implement all of the recommendation of the final hydrology study. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the final hydrology and hydraulic study have been incorporated into the project grading plans and building plans.</p>	Both applicants	City	Prior to issuance of grading and building permits			

Notes: "Both applicants" refers to BioMarin and Whistlestop/Eden Housing; "City" refers to City of San Rafael Planning Department

TABLE IV-1 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
LAND USE AND PLANNING						
LAND-1: No feasible mitigation measures are available, and therefore this impact would be significant and unavoidable on both a project and cumulative basis.	Not applicable	Not applicable	Not applicable			
NOISE						
<p>NOISE-1a: After the Whistlestop/Eden Housing project is completed and housing residents, the BioMarin project applicant shall require that the construction contractor for BioMarin Building A and BioMarin Building B to implement a noise monitoring program during construction. The details of the construction noise monitoring program (described further below) shall be included in applicable contract specifications and be submitted to the City of San Rafael Building Division for approval before construction.</p> <p>A noise monitoring program shall include collecting noise level measurements at the Whistlestop/Eden Housing project during all phases of construction of the BioMarin project. A qualified acoustical consultant shall collect the noise level measurements, and shall select the timing and location of the measurements to be as close to future residents of the Whistlestop/Eden Housing project as possible. Consistent with the San Rafael Municipal Code, noise levels shall be measured on an A-weighted scale with a sound level meter (Type 1 or 2). For constant noise sources, the meter shall be set for slow or fast response speed and L_{eq} shall be used. For intermittent sound, the meter shall be set for fast response speed and L_{max} shall be used.</p> <p>The monitoring results and the associated data interpretation that focuses on whether the construction activity is in compliance with applicable thresholds shall be reported to the City of San Rafael Building Division. If construction noise exceeds 90 dBA L_{max} at the Whistlestop/Eden Housing project, additional noise attenuation measures shall be implemented to reduce construction noise and to ensure the operation of all construction equipment (listed in DEIR Table 4.10-10) to be below 90 dBA L_{max} at the Whistlestop/Eden Housing project. The noise attenuation measures may include, but are not limited to, the erection of a Sound Transmission Class (STC) rated wall or a plywood wall around the construction site. The BioMarin project applicant shall implement the approved monitoring program during construction.</p>	Both applicants	City	During construction			
<p>NOISE-1b: The BioMarin and Whistlestop/Eden Housing project applicants shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications:</p> <ol style="list-style-type: none"> Equip internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and are appropriate for the equipment. 	Both applicants and contractors	City	During construction			

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TABLE IV-1 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
2. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from noise-sensitive land uses. Muffle the stationary equipment, and enclose within temporary sheds or surround by insulation barriers, if feasible. 3. To the extent feasible, establish construction staging areas at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors during all project construction. 4. Use "quiet" air compressors and other stationary noise sources where technology exists. 5. Construct or use temporary noise barriers, as needed, to shield on-site construction and demolition noise from noise-sensitive areas to the extent feasible. To be most effective, the barrier should be placed as close as possible to the noise source or the sensitive receptor. Examples of barriers include portable acoustically lined enclosure/housing for specific equipment (e.g., jackhammer and pneumatic-air tools, which generate the loudest noise), temporary noise barriers (e.g., solid plywood fences or portable panel systems, minimum 8 feet in height), and/or acoustical blankets, as feasible. 6. Control noise levels from workers' amplified music so that sounds are not audible to sensitive receptors in the vicinity. 7. Prohibit all unnecessary idling of internal combustion engines.						
NOISE-1c: The BioMarin and Whistlestop/Eden Housing construction contractors shall develop a set of procedures that are described and included in applicable contract specifications for tracking and responding to complaints received pertaining to construction vibration and noise, and shall implement the procedures during construction. At a minimum, the procedures shall include: 1. Designation of an on-site construction complaint and enforcement manager for the project. 2. Protocols specific to on-site and off-site receptors for receiving, responding to, and tracking received complaints. The construction complaint and enforcement manager shall promptly respond to any complaints and work cooperatively with affected receptors to ensure that the source of the noise- or vibration-generating activity is discontinued or determine an acceptable schedule to resume the activity when the receptor is not present in the residence. 3. Maintenance of a complaint log that records what complaints were received and how these complaints were addressed.	Both applicants' contractors	City	Prior to and during construction			
NOISE-1d: Nearby residents shall be informed by posting informational notices on the fence line of the construction site. The notice shall state the date of planned construction activity and include the contact information of the construction complaint and disturbance coordinator identified in Mitigation Measure NOISE-1b.	Both applicants and contractors	City	At time of developing contract specifications and during construction			

Notes: "Both applicants" refers to BioMarin and Whistlestop/Eden Housing; "City" refers to City of San Rafael Planning Department

TABLE IV-1 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>The above measures shall be included in contract specifications. In addition, an independent construction monitor shall conduct periodic site inspections, but in no event fewer than four total inspections, during the course of construction to ensure these mitigation measures are implemented and shall issue a letter report to the City of San Rafael Building Division documenting the inspection results. Reports indicating non-compliance with construction mitigation measures shall be cause to issue a stop work order until such time as compliance is achieved.</p> <p>The combination of the four mitigation measures above would reduce the impact to a less-than-significant level.</p>						
<p><u>NOISE-2:</u> The project applicants shall use mechanical equipment selection and acoustical shielding to ensure that noise levels from the installation of mechanical equipment do not exceed the exterior noise standards of 60 dBA L_{max}/50 dBA L_{eq} during daytime or 50 dBA L_{max}/40 dBA L_{eq} during nighttime at the nearest residential land uses, and do not exceed the exterior noise standards of 65 dBA L_{max}/55 dBA L_{eq} during both daytime and nighttime at the nearest commercial land uses. Controls that would typically be incorporated to attain this outcome include locating equipment in less noise-sensitive areas, when feasible; selecting quiet equipment; and providing sound attenuators on fans, sound attenuator packages for cooling towers and emergency generators, acoustical screen walls, and equipment enclosures.</p>	Both applicants	City	Prior to issuance of occupancy permits			
<p><u>NOISE-3:</u> Mitigation Measures NOISE-1a through NOISE-1d shall be implemented.</p>	Both applicants	City	Prior to issuance of occupancy permits			
TRANSPORTATION						
<p><u>TRANS-1:</u> BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity for the project site until the 15 percent reduction is identified for three consecutive years. This mitigation measure would reduce the impact to less than significant.</p>	BioMarin	City	Annually during operation			

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TABLE IV-1 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
TRANS-2: No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
TRANS-3: No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
TRANS-4: No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
TRANS-5: Project construction shall abide by the City of San Rafael’s provisions regarding transportation and parking management during construction activities. In addition, the project applicants shall develop a demolition construction traffic management plan defining hours of operation, specified truck routes, and construction parking provisions. This plan shall be prepared by the applicants and approved prior to issuance of a building permit by the City of San Rafael Department of Public Works. The project applicants shall ensure that any parking losses associated with construction vehicles do not affect parking availability on downtown streets.	Both applicants	City	Prior to and during construction			
TRANS-6: The project applicants shall improve the pavement sections of the roadways peripheral to the project site to a condition acceptable to the City Engineer. The applicants shall complete a “pre-construction” study, followed by a “post-construction” survey to determine what road improvements would be the responsibility of the applicants. These studies shall be submitted to the City Engineer for approval.	Both applicants	City Engineer	Prior to and after construction			
TRANS-7a: The project applicants shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground.	Both applicants	City	During operation			
TRANS-7b: The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project’s six driveways. The combination of these two mitigation measures would reduce the impact to less than significant.	Both applicants	City	During operation			
TRANS-8: The project applicants shall fund the design and construction of curb ramp improvements at all corners of the following intersections: 3 rd Street and Lindaro Street, 3 rd Street and Brooks Street, 2 nd Street and Brooks Street, and 2 nd Street and Lindaro Street.	Both applicants	City	Prior to issuance of occupancy permits			
TRANS-9: The project applicants shall fund the design and construction of improvements related to the provision of a crosswalk across the western leg of the 3 rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer.	Both applicants	City Engineer and City	Prior to issuance of occupancy permits			

Notes: “Both applicants” refers to BioMarin and Whistlestop/Eden Housing; “City” refers to City of San Rafael Planning Department

TABLE IV-1 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
TRANS-10: The project applicants shall fund the design and construction of improvements related to the provision of a Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3 rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications.	Both applicants	City Department of Public Works	Prior to issuance of occupancy permits			
TRANS-11: Vehicle travel on Brooks Street at 2 nd Street shall be limited to one-way northbound/ outbound <u>inbound</u> only. Brooks Street at 3 rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3 rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works.	Both applicants	City Department of Public Works	Prior to issuance of occupancy permits			
TRANS-12: The project applicants shall install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street.	Both applicants	City	Prior to issuance of occupancy permits			
TRANS-13: The sliding gates at the 3 rd Street driveway and the southern Brooks Street driveway shall be approved by the City of San Rafael Fire and Police Departments and shall enable access by emergency service providers.	BioMarin only	City Fire and Police Departments	Prior to issuance of occupancy permits			

Notes: "Both applicants" refers to BioMarin and Whistlestop/Eden Housing; "City" refers to City of San Rafael Planning Department